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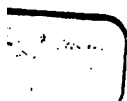
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FEDERAL AND STATE GOVERNMENT

*AN ELEMENTARY TREATISE
ON THE CIVIL GOVERNMENT
OF THE UNITED STATES AND
THE STATE OF MICHIGAN.*

BY *W. H. Field*
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1903

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PREFACE.

In offering this volume to the public, the author considers it his duty to explain briefly the scope of the work and the method employed in treating the subject. Such a statement is particularly necessary in the case of an elementary text-book on civil government, for the increased attention which has been given in recent years to that study has caused the publication of numerous text-books, possessing many meritorious features. Therefore, some reason should be given for writing upon a subject which has been discussed so often by other authors.

The first text-books upon the subject dealt with the Federal government solely, and the study of civics was limited to a consideration of the Constitution and some of the laws of the United States Government. Later, it was found that, however useful and necessary a knowledge of the national government may be, something more is needed to prepare the student for the duties of citizenship, and that it is equally important that he should understand the systems of local and State government under which the citizen lives and which regulate most of his daily transactions.

Recognizing this demand, other books were written, whose contents embraced a consideration of the different

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forms of government to which the individual is subjected from infancy to manhood, including family, school, church, social, municipal, State and national government. In the opinion of competent critics, writers of these books have gone to extremes in their efforts to observe the pedagogic precept of commencing instruction upon any subject with those features which are nearest to the pupil. Under this theory, in many text-books the study of civics is commenced with chapters upon domestic and social topics, which have no place in a work devoted to the study of civil government.

This book is designed for use by students who are sufficiently advanced to take up the study of United States history. It should be used in the higher grades of the elementary school, or the first year of the high school, or both, according to the course of study pursued. It is divided into two parts; the first is devoted to a study of the Federal government and political system; the second to the State government and local institutions of Michigan.

In the first part of the book, it has been the author's aim to furnish aid to students commencing the study of our national political institutions. Therefore, definite and specific information is given as to the essential features of the Federal system, derived from sources not readily accessible to either teacher or pupil. No attempt has been made to analyze the provisions of the Federal Constitution, or to present controversies as to its construction, but there has been an endeavor to show the actual working of our national government, and to describe the same in a manner which can be comprehended by beginners.

The second part of the book is intended as a practical guide to the student upon important matters which are regulated by the local and State government. Other books

have been written with the same object in view, but have failed to some extent in their purpose, because they have not been limited to a consideration of the political institutions of a single State, or of a group of States having similar governmental systems, but have treated these subjects in a general way only, carefully avoiding those details which constitute the distinguishing features of the government of particular States or localities.

It is apparent that, owing to the difference between the constitutional and statutory provisions of the various States of the Union concerning the details of local government, all these different systems cannot be thoroughly treated within the limits of an elementary text-book, except in a general way. Hence, the most successful teachers of civics have been those who have been able to supplement the material contained in the text-book with information concerning the systems of municipal and State government under which the pupils live. This book has been prepared for use in the schools of Michigan and is limited in its discussion of local governmental affairs to that State alone.

It is possible that the order followed in the treatment of the various topics discussed may be the subject of criticism by those who believe that the study of local government should precede that of the State or Nation, and, consequently, that such should be the order of exposition. If the book had been written for the use of students in Massachusetts, Virginia, or any other State whose local institutions were in existence before the formation of the Union, it would be correct, logically and historically, to begin with the study of the local system, and follow with the State and national institutions. The case is different, however, when dealing with the government of Michigan, which owes its existence to acts of the Federal Government, and

the development of whose local institutions did not contribute to the formation of the national system.

For these reasons, it has seemed best to divide the subject into two parts, one showing the origin and development of our national government, and the other explaining the formation of our State government, giving due consideration to the local influences which shaped its structure, together with a brief but comprehensive statement of the various governmental agencies which have been created by the State.

While it has been the purpose to make one chapter follow another in logical sequence, yet each topic is treated in a manner sufficiently independent to permit the use of the book as a guide in case it is desired to study the different forms of government in an order different from that followed in the text.

If this volume proves to be of assistance to those who are eager to know the duties of citizenship, and a help to teachers in presenting to their pupils correct information as to the principles upon which our government is based, and the method by which they are applied in all departments, local, State and national, the author will feel that his labors have been amply rewarded.

Chicago, February 1, 1901.

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PART I.

FEDERAL GOVERNMENT.

CHAPTER I.

ORIGIN AND NECESSITY OF GOVERNMENT.

Probably the only man of whom we have any record, who did not feel the necessity of some form of government, was the children's friend, Robinson Crusoe, when he was alone upon his desert island before the advent of his savage visitors bringing with them the future companion of his exile. So it would be in all cases if men lived alone, separate and apart from their fellow-beings, and had no relations with them of a social, civil or commercial character. But such is not the nature of mankind. From the earliest time recorded in history, men have been accustomed to seek the companionship of their fellow-beings, and from the moment that the association of human beings commences, the necessity for some form of government appears.

Government Defined.—Government may be defined as the control exercised by the supreme or sovereign power of the State over individuals for the benefit of all under its charge. This control is exercised by means of laws, and a law is defined by Sir William Blackstone as a rule of conduct commanding what is right and forbidding what is wrong. The necessity for the existence of some supreme power in the State becomes apparent when we consider the results which would follow from allowing each individual to do or

refrain from doing exactly as he pleases. In such a case the weak would have no protection from the strong and the individual would have no assurance of being allowed to enjoy the fruits of his own labor.

Hence for the common good of all, each individual has been obliged to yield to the supreme power of the state some of the rights and prerogatives which he would possess if in a condition of absolute freedom, and has been bound by civic regulations restraining and controlling to a certain extent the acts of his daily life.

Government, then, implies control and restraint of the individual, and it should therefore be noticed that as the exactions and requirements of government increase, to that extent the freedom of the individual is lost. The only absolutely free person must be one who lives solitary and apart from his fellow-beings, who owes them no duties and receives from them no benefits, and who roams at will, hampered only by the necessity of supplying his own wants. Thus the position of an absolutely free man is but little better than that of the friendless exile upon the desert island, the savage inhabitant of unexplored regions, or the wild beast that wanders at large through the wilderness. The overruling providence, which directs the evolution of the human race, never intended that man should live in a state of absolute and unrestricted freedom, and therefore instincts were planted in the human mind leading him to seek associations with his fellow-beings, thus rendering necessary the existence of some form of government, varying in its details according to the condition of the people and their advancement in civilization.

It follows that the best and most desirable form of government is that which interferes least with the freedom of the individual, while at the same time possessing sufficient

strength to protect its citizens in their life, liberty and property, to command and compel obedience and to administer uniform justice to individuals according to their rights and not according to their strength or the audacity of their demands. It will be found that as mankind has advanced in civilization the relations of individuals to each other have become more varied and complex, and the restraints imposed by government more numerous.

The Family.—The first and simplest form of government made necessary by the association of individuals was the family. With the formation of the family some portion of the freedom of the individual was lost and some restraint was placed upon his acts by reason of governmental control. The head and sovereign power of the family was the father, whose wishes all of the members were obliged to respect, and in return for their obedience they received his protection and support. As the family increased in age and numbers and children of the second and third generations appeared, the sovereign power remained vested in the head of the family, who would be the grandfather, or in the case of his death, his eldest son.

The Clan.—In a few generations, by the growth of the original family and by its union with others, the ties of immediate relationship no longer bound the entire community, and the association of individuals became a group of families, called a clan. The government of the family still continued, but an additional and somewhat different power had of necessity been created, which exercised a control over the entire community for the common good of all. To protect itself against the aggressions of other clans and compel its own members to perform their duties toward each other, it was found necessary to have some central authority whom all must obey which had the power to call upon all of the

members of the clan to protect the individual in the enjoyment of his rights. The person selected for this important function was the head and leader of the clan and was called the chief or by some other term of equivalent meaning. It was his duty to prescribe the rules governing the clan in its intercourse with neighbors, to lead the clan in case of war, to take measures which would tend to keep his followers free from want, and to see that each of his subjects did his duty and observed the rights of his fellow-clansmen.

By this association the individual lost some of his rights, but the benefits which he gained were greater than his losses, for he was no longer obliged to rely entirely upon his own efforts in guarding his flocks, in hunting the wild beasts, in erecting his dwelling, or in overcoming his enemies, but he had the support and assistance of his fellow-clansmen in these undertakings. For many centuries the only form of government known to mankind was that of the clan, which has been described briefly, and which answered all of the needs of a simple people, leading a rude and barbaric life.

The Tribe.—Later, the same impulses and conditions being still at work, different clans coming in contact with each other, led to a union in various ways, sometimes by the intermarriage of children of the chieftains or of the subjects, sometimes by the necessity of making common cause against an enemy, and sometimes by the interchange of the products of such peaceful arts as the people possessed. The ordinary term used to designate such a union of clans is tribe, whose government was in general similar to that of the clan, but necessarily included many additional features as the mass of the people increased in numbers and the tribe grew in power.

The tribe, while still leading a more or less nomadic life,

began gradually to have fixed places of abode during certain seasons of the year. This made it necessary for the chief to prescribe rules concerning the location and manner of constructing the rude huts in which the people lived. Man was not quite as free as he had been before, because he could not fix his dwelling place exactly where he pleased, but was compelled to respect the rights of others. If he coveted the horse or goat of his neighbor, he could not take the animal by virtue of superior strength, because such an infraction of private rights would not be tolerated. The man who was skillful in the chase was compelled to give some of the results of his labor to the artisan who manufactured his bow and arrows. Thus society became more complex, and the work of government became more diverse; as man became more civilized, the reasons for the existence of a government became more numerous, and more and more of the daily acts of the individual came under its control.

Freedom.—From what has been said we conclude that the word freedom, as used in the governmental sense, is a relative term only. It must not be confused with the term license. A free man, as the term is now used, is one who has certain well-defined personal rights, such as the right to life, liberty and the pursuit of happiness, subject to the restriction that he must recognize and respect the same rights existing in favor of his fellow-men. A free man must not be understood to mean a man who can do exactly what he pleases, regardless of the rights of others, but simply as the citizen of a state having a free and independent government. A nation whose government recognizes and protects the rights of all its members, and which is independent of all other nations, is called a free and independent nation.

Governmental Development.—For many generations the only form of government which existed was the tribal

form, but as men became more civilized they began to live in villages, towns and cities, and government began to assume new aspects and covered a wider range. The chief became a king and exercised greater powers. He had in his control the life, liberty and property of his subjects. His will was the only law of the land, and, while he sometimes found it convenient and even necessary to delegate some of his powers to others, still he could always revoke these powers at will and confer them upon others or exercise them himself. Such a form of government is now called an absolute monarchy or a despotism.

It was the legitimate outgrowth of the early tribal form of government, and, while men were rude and uncivilized, probably no better or different form could have been devised. The king ruled by virtue of his superior strength and intelligence, or by reason of his birth or in some cases by divine right as it was claimed, and the people obeyed because they had not yet learned that they constituted the only source of the powers of the government, and that the government had no just powers except such as it exercised with the full consent of the governed.

It would be interesting to trace, step by step, the evolution and growth of the various forms of government that have existed, commencing with the tribal, down through the different kinds of monarchies, oligarchies and republics of ancient and mediæval times to the constitutional monarchies and republics, the most enlightened forms of government of our own times, and to show in detail how, as mankind advanced in civilization, the science of government has developed. For many centuries, governments have been changing and progressing in their forms and duties, from the time when men were simply roving hunters and herders of cattle until they became tillers of the soil and artisans with

fixed places of abode, and until finally they came to engage in all of the different branches of commerce, manufacture and art which pertain to modern civilized life, but the history of these changes and developments furnishes fields for study and investigation which must be pursued independently.

CHAPTER II.

DIFFERENT FORMS OF GOVERNMENT.

It has been shown already how the tribal form of government originated, and that it is the earliest form of government known to man. It is true that the clan preceded the tribe and the family preceded the clan, but family government, as it exists to-day, cannot properly be considered in a work of this kind. Our study will deal only with the government which controls every citizen in common with his fellow-citizens with reference to public matters; in other words, the *civil government* under which we live.

In this chapter, attention will be directed to the various forms of civil government, both ancient and modern, that the difference between our own government and others may be more clearly understood.

The Tribal Form of Government.—This form of government still exists in some parts of the world, but it is to be found only among uncivilized and uneducated people. The American Indians, except in cases where they have adopted the habits of civilized life, still live under a tribal form of government, but a better illustration is to be found among the savage inhabitants of some parts of Asia and Africa and the islands of the Pacific Ocean. Little need be said concerning this form of government, as it has no written laws and the supreme power is vested in the chief. His authority is shown principally by his leadership in time of war and his selfish exactions in time of peace. No doubt

the government of some tribes has been beneficial to the people composing them, in cases where the chief has been a man of unusual wisdom and actuated by benevolent motives, but such instances have been few and governments of this kind now exist only among people so rude and barbaric that they are incapable of instituting any better system. A general knowledge of the tribal form of government is necessary principally to enable the student to comprehend more clearly the part which it has taken in the development of the science of government, and not because it will directly aid him in performing the duties of citizenship.

It was the first step taken toward the construction of a civil system. It marked an era in the evolution and growth of governmental institutions. It fulfilled the purpose for which it existed until it came to be replaced by more efficient systems. For this reason the tribal form of government deserves a place in our study, and as we progress attention will be given to those features of our own system in the growth of which tribal government has played a part.

The Absolute Monarchy.—This term designates the form of government in which the absolute power of making and enforcing laws controlling the liberty, property and welfare of the mass of the people is vested in the monarch, who is called by different names. He is called the Emperor in China, the Shah in Persia, the Sultan in Turkey, and the Czar in Russia, but, by whatever name he is known, he is the absolute ruler of his people. The government has no legislature chosen by the people to make laws for their own good, but the only laws consist of imperial decrees or edicts, which must be obeyed strictly or the severest punishment will follow. The laws are not enforced by officers chosen by the people, but by officers appointed directly or indirectly by the ruler, whose aims are to administer the law as

the monarch dictates, regardless of reason or justice toward the individuals whose interests are at stake.

Under such a government a person who is accused of violation of the laws does not have the benefit of a full, fair and open trial, but his case is decided summarily by a magistrate who has no object in view except to carry out the personal wishes of his ruler, or in many cases the offender is given no trial, but is hurried away to imprisonment, banishment or death, without even knowing of what he is accused.

Such a form of government, no matter what may be the personal merits of the ruler, can exist only in countries where the people are kept in subjection by ignorance and superstition, and are made to believe that their ruler is rightfully entitled to everything which he sees fit to demand. With the spread of education and intelligence among the people, such a form of government is bound to lose its powers and be overthrown, to be replaced by some other system recognizing the rights of man and the equality of the individual before the law.

The Oligarchy.— It sometimes happened in ancient times that the government of a people, instead of being committed to a single hereditary chief, was given to a number of persons of equal power, constituting a governmental council having supreme control over the lives and property of the people. Such a form of government is called an oligarchy—that is to say, government by a few, according to the etymological meaning of the word.

Such governments were generally of comparatively brief duration, because jealousies arose and ambitions were developed among the persons composing the oligarchy and the strife thus engendered usually led to civil war and the

overthrow of the government, resulting in the triumph of the strongest and a despotic form of government.

Any government in which the civil power is vested in a limited number of persons, as in a republic where the right of suffrage is narrowly restricted, may properly be called an oligarchy, although the term, as originally used, is applied to such a form of government as at one time existed in Rome, in some of the states of Greece, and in Venice.

The Ancient Republic.— The impression prevails with many that the republican form of government is of purely modern origin. But many centuries before this continent was discovered, the people of Ancient Rome were accustomed to meet in their *forum*, or public meeting place, and there enact laws and perform all of the governmental functions. These meetings were called *comitia*. At a different period, the Greeks carried on their government in similar public meetings, called *ecclesia*, which were held out of doors in the *agora*, or market place, and at a later period many of the Anglo-Saxon tribes decided questions of peace and war, levied taxes and punished criminals at public meetings in which citizens took part.

All of these governments were republics, because in them the source of power was recognized as existing in the body of the people. They were essentially different, however, from our own republic, because the rights of citizenship and property were restricted to particular classes of the population, and the equality of all individuals before the law was not recognized.

The principles which lie at the foundation of our own republic were unknown in Ancient Greece and Rome; these republics were, in fact, but little better than the form of government which has been described as an oligarchy.

The Constitutional or Limited Monarchy. — The origin, development and growth of the constitutional or limited monarchy, as it exists in the enlightened European nations of to-day, such as England, Holland, Norway and Sweden, has much in common with our own governmental history. Many political institutions which we highly prize, as the town meeting, and some features of representative government to be described hereafter, had their origin in the customs of the Teutonic tribes which formerly inhabited the shores of the North and Baltic seas, and the valley of the Elbe, and many of these institutions exist to-day in the monarchical governments just mentioned.

To attempt to enumerate and discuss in this connection all of these points of resemblance between the constitutional monarchy of England and the government of our own republic would interfere with the orderly arrangement of our work, and properly belongs to another branch of study; but as our work progresses it will appear that in many respects Englishmen and Germans enjoy fully as great political freedom as do the citizens of the United States of America, and that many of our most highly prized political institutions did not originate with us, but were brought across the seas by our ancestors to this land, where, by the general education of the people, they speedily received a wider application and more perfect development than conditions would permit in other countries.

A limited or constitutional monarchy may be defined in general as a government whose chief ruler, whether he be called king or emperor, does not enjoy absolute power, because his rights and privileges are limited by restrictions placed upon them for the benefit of the people. These restrictions exist in the form of laws which cannot be abrogated by the ruler without a revolution; they are so bene-

ficial and necessary to the welfare of all classes of society that their modification or annulment would never meet the approval of the people. The rights so secured to the people are constitutional—that is to say, they are inherent and cannot be taken away without the consent of the people. The constitutional monarchy naturally takes the place of the absolute form of government in those countries where the people have become so enlightened that they insist upon the right to make the laws under which they live.

The constitutional monarchy is a link in governmental development between the absolute monarchy and the modern republic. It has many features in common with the absolute monarchy. For instance, the sovereign holds his office for life, and upon his death is succeeded by his eldest son or daughter, or, in case he has none, by his next of kin in the order of succession. This right to rulership is called hereditary, because it exists by reason of the birth of the person who enjoys it, and descends from one generation to another. A change, or attempted change, in the order of succession has generally produced a revolution and has caused many of the bloodiest wars in history.

The constitutional monarchy also has many features in common with our own republic—as, for instance, the power of taxation is exercised only by the representatives of the people and not according to the whim or caprice of the ruler, and the laws are enacted by chosen representatives of the people.

The Modern Republic.—The last form of government to be noticed is the republican. It is the youngest in point of time, and it is the product of the highest intellectual development. In speaking of and defining the republican form of government, it must be understood that reference is had to our own republic alone, because the ancient republics

were but little better than oligarchies, and other modern republics, such as France and the countries of South and Central America, have institutions essentially different from those of our own country. In fact, the only people who enjoy governmental rights and privileges very closely resembling our own are the Swiss.

A republic may be defined as a nation in which the sovereign power resides in the whole body of the people and is exercised by representatives chosen by them. The people are the source of all power, and no class is recognized as enjoying any exclusive privilege, but all have equal rights before the law. (As characterized by President Lincoln, it is a government "of the people, for the people and by the people.")

The head of the government, called the President, does not hold his position by reason of his birth, as in monarchies, but because he has been chosen by the whole body of the people. The laws which protect the people in their rights are made by men who have been selected by the people to do this work for them. It would be impossible for the people in even a single city to meet together to make laws for its government, as the meeting would be too large for purposes of deliberation: therefore the people choose representatives for the different sections of the country, who, in the aggregate, exercise the power of the people to make the laws. In a republic the laws are applied to the transactions of daily life by courts and judges created and appointed in the manner which the people decide to be for the best interests of all, and not by judges in whose appointment the people have had no voice, as is the case in most monarchical governments.

The features which distinguish the republican form of government from all others are that all governmental pow-

ers emanate from the people, all taxes are levied, courts maintained, laws made, and every public institution put in operation by the representatives of the people, for the good of all the people and with their consent. A government has no just powers except such as it exercises with the consent of the governed. The difference between such a government and an absolute monarchy or despotic form of government is so radical and apparent, that with a little reflection you can enumerate many of the points of difference without further aid.

Popular Government.—In concluding this chapter we are naturally led to consider the meaning of the term *popular government*, which is often used in describing the government of our own country, as well as that of other civilized nations. This is a general term, meaning government by the people, and may be applied properly to any government in which the people take part, either directly or through their representatives.

The government of the United States and each of the States of the Union is a popular government, and the same is true to a greater or less extent of all of the modern republics and of a limited monarchical form of government, like that of England. The extent to which the people may be allowed to participate in the functions of government must depend upon their education, intelligence and aptitude for political affairs. Consequently popular governments flourish in those countries where there is general diffusion of knowledge, and the inhabitants, by their education, experience and training, are able to consider governmental questions in an intelligent manner.

Great advances are being made continually in the development of popular government, and in all of the European countries, except the absolute monarchies, greater

political powers have gradually been given to the people. But probably the theory of a popular government in the widest and fullest meaning of the term will never be fully realized except in the management of local affairs in comparatively small communities.

CHAPTER III.

DISTINCTIVE FEATURES OF OUR GOVERNMENT.

Let us now consider some of those features of our own government which distinguish it from all others, the underlying principles which are embodied in different ways in every branch of the civil government, all of which tend to make the government of the United States the most perfect example which has yet been produced of an enlightened form of popular government. The fact has already been noted that in the theory of our government the source of all power lies in the people who are governed, that the government derives all of its powers from their consent, and that all of the people, directly or indirectly, participate in the work of governing.

This principle cannot be dwelt upon too much, because, unless it is fully understood and appreciated, we cannot comprehend our political institutions, and without a just comprehension of these institutions it is impossible to be a good citizen. It will at times be difficult to see how the plain, ordinary citizen, whose time is spent in attending to his business and providing for the wants of his family, takes part in the important functions of government, such as levying taxes, making laws and managing public institutions; but such is the fact.

It is apparent that in a small community, all properly qualified persons can and should have a direct participation in public matters, and the history of nations shows in many

cases that in the early days the people actually ruled, and all had a voice in the government. The difficulty has been that as nations grew in population and importance, it was no longer possible to carry on the work of government by a mass-meeting of the people, and consequently the people gradually lost their individual rights, until finally an absolute form of government was established. It has remained for the people of this great republic to evolve a scheme of government whereby the rights of the citizens have been preserved, and at the same time the nation has grown wonderfully in power and importance.

Representative Government.— To our Anglo-Saxon ancestors we owe the discovery and application of a system which has been an effective instrumentality for enabling the people of this vast country to retain their individual rights and to take part effectively in administering the government. We ordinarily describe this system as government by representation, or representative government. By this device the community which has become large and populous is divided into districts, called by different names, each of which chooses by popular vote one or more persons to represent it in the government and to speak for the district in all governmental matters.

Thus the several States composing the United States are represented in the national government by their senators and representatives in Congress, and in each of the States the law-making part of the government is conducted at the State capital by representatives chosen by the people residing in the different sections of the State, and in the cities, towns, villages and school districts the same principle is applied. All of these arrangements will be shown in detail when we come to consider the different branches of the government under which we live, but for the present it is

enough to remember that the people themselves carry on the government by means of representative assemblies.

The Congress of the United States, the Legislatures of the various States, the City Councils of the different cities, all are representative assemblies, because they are composed of delegates elected by the people.

History of Government by Representation.—The principle of government by representation came to us from England where it had been in use, more or less extensively, since the earliest days of English history, but it cannot be said to have originated in England, as traces of such a system have been found in the fragmentary history of the Anglo-Saxon tribes, to whom reference has already been made as being the originators of some of our political institutions.

Historians generally have recognized the Germanic origin of this institution, and that its introduction into England was due to its existence among the Anglo-Saxon tribes who invaded England during the fifth century. A distinguished English historian, in describing the civil organization of these tribes, says:

"But the peculiar shape which its civil organization assumed was determined by a principle familiar to the Germanic races and destined to exercise a vast influence on the future of mankind. This was the principle of representation. The four or ten villagers who followed the reeve of each township to the general muster of the hundred were held to represent the whole body of the township from whence they came. Their voice was its voice, their doing its doing, their pledge its pledge."*

Therefore it is safe to say that from time immemorial the principle of government by representation has been familiar

*Green's History of the English People. Vol. I., Chap. I.

to Englishmen, even before they came to live in their island kingdom, and while they inhabited their fatherland in Northern Germany and Denmark. For a time this system was applied only to the government of small communities, but, as the centuries rolled by, it received a wider application and finally became one of the chief factors in the administration of national affairs.

We cannot undertake to trace the history of the development of representative government in England through the centuries which have passed since the Anglo-Saxon invasion, but one of its critical stages may be noticed with profit. During the thirteenth century there was a long struggle between the King of England, who was seeking to retain absolute power, and the people, who were striving for greater political rights, under the leadership of Simon de Montfort, Earl of Leicester. In this struggle, called the Baron's War, which lasted for many years, the people finally triumphed, and in the year 1265 a Parliament was assembled, composed of representatives of all of the people.

Comparatively little is known of this Parliament, except that it was the first example of the complete application of the principle of representation to the affairs of the whole nation. Thirty years later the work was completed and perfected by the assembling, during the reign of Edward I., of what is called in English history the Model Parliament.

Then, to know fully the history of representative government, as it exists among the English-speaking people, it is necessary to commence with the German tribes who in ancient times inhabited the northern part of Europe, to follow them in their invasion of England, and to trace for many years the struggles with kings and nobles until the time of Edward I., and thence to the settlement of our own country in the early part of the seventeenth century. It is a

long story, filled with tales of human suffering, war and bloodshed, which we little realize in our day, so accustomed have we become to the enjoyment of these privileges secured by the continued struggles of our ancestors for so many centuries.

Public Office.—Another distinctive feature of our government is suggested by the principle emphasized at the beginning of this chapter, that the “consent of the governed” is the foundation of our system. Bearing this in mind, it naturally follows that we have no rulers in the governmental sense, for all of the officers of the government, from the President down to the humblest clerk of the rural village, are the agents of the people, chosen by them to do certain work and expected to carry out their wishes as expressed in laws enacted by the representatives of the people.

It has frequently been said that “public office is a public trust.” This is true, and means simply that the man who is chosen to hold a public office has intrusted to him by the people the performance of certain duties, and that he must at all times be prepared to give an account of his stewardship. If unfaithful, he is answerable to the people he has betrayed. Public officers are the servants, agents, clerks and treasurers, and not the masters of the people.

Written Constitutions.—We come now to consider a feature of our government which is peculiarly and distinctively American in its origin and development. It is known as the written constitution. The constitution is an important feature of all representative governments, whether the government be a limited monarchy, like that of England, or a republic, like the United States, and to thoroughly understand such a government we must know the meaning of the word “constitution” and all of its various applications.

The constitution, as the term is used in this country, means a written document defining the powers of the government, the terms and conditions of which furnish the test for determining whether or not the government is exceeding its powers in the performance of any specific act. It is often briefly defined as the supreme law of the land, the fundamental statute to which all other laws must conform. By this we mean that all other laws, whether enacted by Congress or any other legislative body, must comply with its provisions, and that any law which violates the constitution in any respect is void and of no effect, or, as it is ordinarily termed, is unconstitutional.

We may also regard the constitution as the instrument which sets forth in detail those rights which the people have surrendered to the general government for the common good, and the restrictions imposed upon the government in exercising these rights. It is the charter from the people to the government under which the government exists.

The constitution of the United States is a written instrument, setting forth in detail what powers can be exercised by the general government, and the manner in which its functions must be performed. It, therefore, limits and defines the objects, purposes and management of the government, and expressly provides, in one of its amendments, that the powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States respectively, or *to the people*, thereby affirming the doctrine that the fundamental source of power is the people, who may or may not delegate all of their powers to the government.

What has been said concerning the Constitution of the United States is in a measure applicable to the constitutions of the respective States. Each of the States within its bor-

ders has absolute control of the governmental machinery relating to the whole State. Leaving out of consideration local municipal affairs, all governmental powers which have not been committed to the federal government through the medium of the Constitution of the United States are exercised by the State government. It naturally follows that the constitution of a State will more intimately concern the private life and the daily acts of the citizens than the Constitution of the United States, because by far a greater number of matters are under the control of the State government than of the national government.

Branches of Government. — Another characteristic feature of our government under the constitution is the care with which the various departments of the government are separated, so that each will constitute a check upon the other. These constitutional provisions are peculiar to our government and are not to be found in England or other countries under a constitutional form of government. The functions performed by a government are divided into three classes, the legislative, executive and judicial.

The legislative, or law-making, department lies at the foundation of the government. As a government exercises its control over its citizens by means of laws, it is apparent that the law-making power is the first to be considered in any scheme of government, and that the right to make laws is one of the indispensable attributes of sovereign power.

The judicial department in a constitutional government exists for the purpose of interpreting the laws and applying them to the transactions of daily life. It exercises an important check upon the legislative department, because it determines whether or not any of the laws enacted by the legislature are in violation of the constitution, and, for that reason, void.

The executive department executes the laws. This may be done by providing the proper machinery for carrying into effect the declarations of the legislature without the intervention of any court, or by carrying out the decisions of a court as to the effect of the laws upon a given transaction.

Different Governments Under Which We Live.—

We shall now consider briefly the triple character of the government under which every citizen of the United States lives, and show that he owes allegiance to three different governments—namely, the national government, the State government and the local government of the county and of the city, town or village in which he has his home. And herein we find a governmental arrangement peculiar to our own country, to which we may point with pride, because by means of it we have been able to become one of the great nations of the earth and at the same time have left with the people unimpaired the right of local self-government.

This great result has been accomplished through the medium of written constitutions, by which the people have delegated to these different governments the only powers which they can rightfully exercise. Thus the Constitution of the United States sets forth in detail those powers which are to be exercised and the duties which are to be performed by the Federal Government, which has no right whatever to exceed the limits imposed by the constitution. These powers are of such a character that they could not well be exercised by each individual State; because relating, as they do, to the welfare of the entire country, they must be exercised in a uniform manner throughout the entire territory.

The Federal Government, among other things, has power to regulate our intercourse with foreign nations, to pro-

vide for the support of the army and navy, to establish and maintain a postal system, to coin money and issue bills and notes which circulate as money, and to fix the terms and conditions under which people born in other countries may become citizens of the United States. It is apparent that powers such as these must be exercised by some central authority that can enforce obedience in all parts of the land, and for this reason the government of the United States as a nation was established.

The next government to which every citizen owes respect and obedience is that of the State in which he lives. The powers and prerogatives of the state governments are much more numerous than those of the national government. The only limitations placed by the Constitution of the United States upon the power of a state government are that it shall not exercise any of the powers which have been given exclusively to the United States, and shall not do certain other things expressly forbidden, which no State would probably ever wish to do, as coining money, granting titles of nobility or passing any law impairing the obligation of contracts. With these few restrictions, every governmental action is within the power of the State, subject only to such conditions as may be imposed by the people through the provisions of the State constitution.

The third government to which every citizen is subject is the municipal government of the village or city in which he lives. All city governments derive their powers from the legislature of the State in which they are situated and can exercise no power or authority except such as is granted by the act of the legislature creating the city government. These powers are numerous and intimately connected with the daily life of the citizen. The city government is the agency provided by the State for enabling the inhabitants of

a city to regulate their own local affairs, as the control of streets and sidewalks, the construction of buildings, the supplying of water, and numerous systems tending to promote the health and welfare of the citizens in their daily life.

In this way the magnificent fabric of our government has been created. It is a marvel of political ingenuity, because it is the only government which has solved the problem of preserving the right of the people to regulate local affairs and has constructed a powerful nation out of independent self-governing elements.

The Declaration of Independence.— When our forefathers decided to form an independent government for the benefit of the people of this country, they wisely decided to state definitely their ideas as to what such a government should be and the reasons for their action in a document signed by the representatives of the people, so that all who perused it could understand the motives which prompted their action.

This document was the Declaration of Independence. It is a model of brevity and logical reasoning, and embodies in its few lines the results of profound knowledge of the science of government. If thoroughly analyzed and comprehended it will be found to contain a complete statement of the objects for which governments exist, and in its arraignment of the king of Great Britain there is a protest against nearly every form of governmental abuse. Its statements of the principles of our government cannot be excelled and we cannot too often recur to its study, for in it we find literature of the greatest merit, political science never excelled and governmental philosophy whose soundness cannot be questioned.

The principles which are maintained by our government

are the equality of all men in the eyes of the law, the right of the individual to life, liberty and the pursuit of happiness, the consent of the governed as the foundation of all governmental power and the unquestioned right of the people to alter and change the form of government as they may see fit.

There are some who profess to regard these doctrines as old-fashioned, antiquated generalities, but these cannot be considered intelligent and patriotic citizens of the republic. The principles embodied in the Declaration of Independence have been, and still are, the hope of humanity, and to insure their perpetuation the greatest intelligence and watchfulness is required of every citizen.

CHAPTER IV.

COLONIAL GOVERNMENTS

It would be tedious to enumerate in detail the changes and alterations which took place in the government of the different colonies during the one hundred and fifty years, which intervened between the first settlement of our country and the Revolutionary War. Therefore we shall consider only the forms of government which prevailed in the colonies at a period just prior to the Declaration of Independence, because the governments of the various States have been the direct outgrowth of the colonial governments as they existed at that period, but slight changes, comparatively speaking, being needed in the case of the thirteen original colonies in order to adapt their governments to the necessities of a sovereign state.

The colonies had no written constitutions, in the sense in which the term has been heretofore explained, but each of them had fundamental written laws which took the place of a constitution. These laws were to be found in the charter or grant of power from the King of England to the colony, in the commission of the governor issued to him by the King, and in the various instructions from the British Crown and colonial offices to the officers of the colony.

The Charter.— In the history of the government of the British colonies in this country, the charter has almost as important a place as the constitution occupies in the government of the present day. A charter is defined as a grant

made by the sovereign, either to the whole people or to a portion of them, securing to them the enjoyment of certain political rights. In many of the colonies the charter was the fundamental law, but it was unlike a constitution, because a constitution is a fundamental law established by the people themselves, while the charter emanated from the sovereign, who was the King of England.

The term charter, as denoting a concession or grant of political rights from the ruler, came into use during the Middle Ages, when all governments were absolute in form. In those days the cities of Europe were the centers of education, art and refinement, and in many cases the people made such progress in wealth and civilization that they no longer were willing to submit to the exactions of an arbitrary government, and sought to obtain from their rulers moderate political privileges, enabling them to exercise in some degree the right of local self-government.

The written document by which the sovereign granted political rights in such cases as these was called a charter. Sometimes such a charter was obtained only after a long struggle involving war and bloodshed, and sometimes it was obtained by a cash payment to the ruler, and sometimes, when the ruler was a man of unusual intelligence, the rights were freely granted when deserved, the only consideration demanded being the continued loyalty of the people.

Magna Charta.—In English history, for many years the term charter was understood to refer to one document alone, known as Magna Charta, or The Great Charter. This document, which has almost as prominent a place in the political history of the United States as in that of England, was a grant of political rights, which King John of England was compelled to give to his people on the 15th day of June in the year 1215. This date should be remembered, for on

that day many of the rights which are now secured to us by our own laws were for the first time embodied in a permanent written form for the benefit of the people then living and of future generations.

Space will not permit us to tell the intensely interesting story of the long struggle between King John and his people which culminated in the granting of this famous charter, nor to relate the abuses which it corrected, and which, abandoned for so many years, can interest us now only as matters of curiosity and historical study. The importance of the document in those ancient times is best shown by the following words of the great English historian, which are just as significant to Americans as to Englishmen :

"Copies of it were made and sent for preservation to the cathedrals and churches, and one copy may still be seen in the British Museum, injured by age and fire, but with the royal seal still hanging from the brown, shriveled parchment. It is impossible to gaze without reverence on the earliest monument of English freedom, which we can see with our own eyes and touch with our own hands, the Great Charter, to which, from age to age, men have looked back as the groundwork of English liberty."*

And so, following the course of English history from century to century, we find that as often as the burdens of the people became unbearable, so often matters came to a crisis, and little by little the rights of the people increased and the absolute powers of the kings diminished ; but we are now concerned with the affairs of our own country alone, and these allusions to English political history are made only for the purpose of showing the long and steady growth and development of the cause of popular government, commencing with the meager concessions wrung by force from

*Green's History of the English People.

unwilling monarchs in the Middle Ages and culminating in the magnificent framework of our own government.

Colonial Grants.—In the seventeenth century, for the purpose of developing the natural resources of the North American colonies and thereby increasing the wealth, power and glory of his own kingdom, the King of Great Britain granted to some of his subjects charters authorizing them to fish, hunt and trade, to make settlements and occupy land on this continent. These charters granted to trading companies were the first fundamental laws which existed in this land, but later when the colonies had grown in population and wealth to such an extent that other governmental machinery was needed, more complete charters were granted in some cases, and in others a royal governor was appointed, who had the right to exercise such powers of government as might be included in the commission of the king appointing him.

We shall not attempt to study all of the different forms of government which existed at different times in the colonies, leaving that to be taken up in connection with your historical studies, where the subject properly belongs; but we should know something of these governments as they existed just prior to the Revolutionary War, in order to understand how dependent colonies were transformed into sovereign states.*

At this time the colonies, so far as their form of government is concerned, may be divided into three classes.

I. Royal Colonies.—This class includes the colonies of Virginia, Georgia, New Hampshire, New York, New Jersey, North Carolina and South Carolina. The government of these colonies was controlled almost entirely by

* An excellent account of the colonial governments may be found in Martin's Text Book of Civil Government.

England. The colony had no written constitution preserving and protecting the rights of the people, but the fundamental law which controlled their government was to be found in the instructions given their governor by the English Crown. They had a governor who was the chief executive officer, and a council appointed by the King to assist him in performing his duties.

The governor had the power of calling a legislative assembly for the colony, composed of representatives of the different sections, but no laws could be framed which were in any way repugnant to the English government. The governor also had a control over the acts of the legislative assembly, because if the assembly disregarded his wishes and persisted in enacting laws which did not meet with his approval, he could veto these laws and dissolve the legislative assembly whenever he saw fit. With the advice of his council he could appoint judges, create courts and perform many other functions of an absolute ruler. From this brief statement, it will be seen that the government in the colonies above mentioned had few of the distinguishing characteristics of a government by the people.

2. Charter Colonies.—While these colonies had no written constitution, they had a fundamental law which was to be found in the charter or grant of power from the king. This charter was in effect a constitution, because it gave to the people of the colony certain rights of self-government. Any attempt on the part of the English government to annul these charters, or in any way to modify the protection which they afforded to the people, always caused trouble, and to the frequent recurrence of these attempts may be traced the causes which led to the Revolutionary War.

The charter colonies were three in number—Massachusetts, Rhode Island and Connecticut. Of these three, the

charters of Rhode Island and Connecticut were most favorable to the cause of popular government in the colonies. Rhode Island and Connecticut were pure republics and both branches of the legislative assembly were elected by the people. In fact, so satisfactory were the charters to the people of these two colonies that the charter of Connecticut remained as its only constitution until the year 1818, and in Rhode Island no other constitution was adopted until the year 1842.

The charter of Massachusetts vested the executive branch of the government in the governor, who was appointed by the English government. The legislative branch consisted of an assembly of two houses, the lower house being composed of representatives chosen by the people. The House of Representatives, or the lower house of the legislative assembly, had the power of electing the upper branch of the assembly, which was known as the Governor's Council. Such elections were subject, however, to the veto of the governor. Thus, while the colonial government of Massachusetts was much more liberal and democratic than the government of the Royal Provinces, still it was not to be compared in this respect with the charters of Rhode Island and Connecticut.

3. Proprietary Colonies.— These colonies were three in number—Pennsylvania, Delaware and Maryland. They were called proprietary colonies because they originated in a grant of land from the King of Great Britain to an individual who was, by the terms of his grant, vested with the full power of framing and exercising a form of government over the territory under his jurisdiction. In these colonies the governor was appointed by the proprietary lord, but in some cases the proprietary himself acted as the governor.

In Maryland, under the terms of the grant from the King

of Great Britain, the office of proprietary was hereditary in the Calvert family. The government in this and other proprietary colonies was not unlike that of a limited monarchy. The people had no voice in the appointment of a governor, but did have the right to elect a legislative assembly to enact the laws for the government of the colony.

Pennsylvania and Delaware were separate colonies and had separate legislative assemblies, but they originated in the grant from the King of Great Britain to William Penn, who was the proprietary and in whose descendants the proprietorship vested, the same as in the case of the Calvert family in Maryland.

The Transition from the colonial forms of government to the government of a State was easy. In the case of Connecticut and Rhode Island, no change was necessary until many years after the independence of the United States, when the altered conditions due to the progress of the people in the nineteenth century made the former government antiquated and unsuitable. In Massachusetts only slight changes were necessary, such as providing for the election of a governor and both branches of the legislative assembly by the people and the removal of the name of the King of Great Britain from all legal documents and substituting, in lieu thereof, the name of the People of the State of Massachusetts. In the Royal Provinces the changes were more numerous, as the people in these colonies, by appropriate legislation, wiped out of existence all vestiges of royal authority, and enacted laws giving to themselves such rights as had formerly been granted by the King of Great Britain to the people of Rhode Island and Connecticut.

Political Status of the Colonies.—In this way the State governments of the thirteen original States were

framed, and the same model has been used in providing a government for the new States upon their admission into the Union. The political status of the colonies, at the time of the Revolutionary War and of the respective States of the Union after the federal government was formed, has been the subject of much discussion among writers upon historical and political subjects. This subject has been admirably treated by Mr. Justice Story in so brief and forceful a manner that we cannot do better than adopt his words as a guide:

"Though the colonies had a common origin and owed a common allegiance, and the inhabitants of each were British subjects, they had no direct political connection with each other. Each was independent of all others; each, in a limited sense, was sovereign within its own territory. There was neither alliance nor confederacy between them. The assembly of one province could not make laws for another, nor confer privileges which were to be enjoyed or exercised in another, further than they could be in any independent foreign state. As colonies they were also excluded from all connections with foreign states. They were known only as dependencies; and they followed the fate of the parent country, both in peace and in war, without having assigned to them, in the intercourse or diplomacy of nations, any distinct or independent existence. They did not possess the power of forming any league or treaty among themselves which should acquire an obligatory force without the assent of the parent state.

"But, although the colonies were independent of each other in respect to their domestic concerns, they were not wholly alien to each other. On the contrary, they were fellow-subjects, and for many purposes one people. Every colonist had a right to inhabit, if he pleased, in any other

colony; and, as a British subject, he was capable of inheriting lands by descent in every other colony. The commercial intercourse of the colonies, too, was regulated by the general laws of the British Empire, and could not be restrained or obstructed by colonial legislation.”*

Such was the condition of the colonies in the year 1775. But when the final struggle with the parent country commenced, the necessity for some sort of union among the colonies was more apparent than ever, because it would have been impossible for thirteen small states to successfully prosecute a war against the most powerful nation of Europe without combining their resources and presenting a united front to the common enemy. For this purpose temporary expedients were adopted, probably the best that could have been devised under the circumstances, but, as experience proved, wholly insufficient to regulate the affairs of a great nation.

Consequently, during the period from 1775 to 1789, when the present constitution was adopted, the government of the United States, except as to the local affairs of each colony, was unsettled to such an extent that many statesmen despaired of ever being able to form a successful national government.

*Story's Commentaries on the Constitution.

CHAPTER V.

FORMATION OF THE AMERICAN UNION.

The fifteen years which intervened between the meeting of the First Continental Congress, in 1774, and the beginning of government under our present constitution, were probably the most critical for the cause of popular government that have ever passed. During these years, the country's future was often imperiled, not only by the successes of the British army, in the earlier stages of the Revolutionary War, but at all times by the inefficiency of our own central government, and later, after our arms had been victorious and the power of England had been banished from our shores, by the petty jealousy, suspicion and rivalry which prevailed among the respective colonies.

Prior to the year 1774 there had been no permanent union of the colonies, but each had been careful to preserve its political identity. Such attempts as had been made toward effecting a union had been viewed with distrust by the colonists and regarded with disfavor by England. During the seventeenth century, between the years 1643 and 1683, there had been a defensive alliance between the New England colonies for the purpose of protecting their settlements from the attacks of hostile Indians, but this union did not contemplate or include within its scope any plan for the government of all the colonies by a central authority.

Albany Convention.—From time to time the political thinkers of the colonies discussed the feasibility of union,

and in 1754 Benjamin Franklin and others were instrumental in assembling a meeting of representatives from many of the colonies, known as the Albany Convention. At this convention a scheme for the union of the colonies was presented, but nothing came of the movement, for the plan was not received with favor, either by the inhabitants of the colonies or by the English government.

Stamp Act Congress.—The necessity for union had not yet appeared, and it needed the oppression of England to arouse in the colonists the spirit of independence. The attempted enforcement of the Stamp Act aroused such indignation that, in 1765, delegates from eight of the colonies met and protested against the obnoxious law. This assembly was known as the Stamp Act Congress. It had no legislative powers and did not attempt to exercise any authority over the colonies; but by its meeting the people of the country became, to some extent, imbued with the idea of uniting for the purpose of resisting the aggressions of the English government, and its protest was effectual in causing the repeal of the Stamp Act.

Oppressive Laws.—Notwithstanding these evidences of the temper of the colonies and their determination to resist all laws which did not recognize their rights as British subjects to the same extent as if they had been actual residents of England, the English government persisted in enacting legislation having for its object the imposition of taxes upon the colonists and restraining them from pursuing a free and untrammelled course in their commercial affairs.

Among these laws which the colonies regarded as oppressive may be mentioned the Townshend Acts, three in number, one requiring the legislature of New York to pro-

vide for the support of the English troops quartered in that colony, another establishing a Commission of Customs at Boston to enforce the collection of taxes and to regulate trade, and another placing a tax on glass, paint, paper, tea and other articles.

While these taxes were not burdensome in amount, nevertheless they aroused the most bitter opposition on the part of the colonists, because the attempt of the British government to levy and collect them violated a fundamental principle of representative government, the colonies believing that they had the legal right to resist the payment of any tax which was not levied with their full consent and concurrence. In other words, the colonists, not being represented in the English Parliament, contended that body had no right to impose taxes of any kind upon them; hence they boldly asserted the doctrine fundamental in all popular governments, that taxation without representation is unlawful.

First Continental Congress.—It is not our purpose to write a history of these troublous times between 1765 and 1774, and therefore we shall only enumerate certain laws enacted by the British Parliament which the colonists regarded as oppressive, and which led to the meeting of the First Continental Congress in the month of September, 1774, and shall leave the story of these transactions to be learned in connection with your historical studies or to be the subject of supplementary reading.

The laws to which reference has been made were the Boston Port Bill, virtually closing the port of Boston to commerce; the Transportation Bill, whereby in certain cases persons accused of murder in resisting the laws might be sent to England for trial; the Massachusetts Bill, an attempt on the part of England to modify the charter of Massachu-

setts; the Quartering Act, providing for the quartering of British soldiers upon the people; and the Quebec Act, depriving the colonies of Massachusetts, Connecticut and Virginia of the vast Northwestern Territory claimed by them between the great lakes and the Ohio and Mississippi rivers, and annexing the same to the Province of Quebec.

The indignation aroused by the passage and attempted enforcement of these laws was such that, under the lead of Massachusetts and Virginia, a body composed of delegates from all of the thirteen colonies, except Georgia, assembled in Philadelphia to take such action as might be deemed necessary to obtain a redress of their grievances. This assembly is known in history as the First Continental Congress. It remained in session in Carpenter's Hall in Philadelphia from September 5, 1774, to October 26, 1774.

In these sessions the congress, on behalf of the people of the colonies, adopted a Bill of Rights* and formulated addresses to the people of the colonies and to the king and people of Great Britain, for the purpose, as it was hoped, of bringing about a better understanding between the parties to the controversy, and thus avoiding further conflict. It is to be noticed that at this time the people of the colonies were still loyal to England and had no thought of becoming an independent nation, but sought only to obtain what they conceived to be their rights as Englishmen. The acts of the First Continental Congress are important in the political history of our country because, by its proceedings, the sentiment in favor of union between the colonies was strengthened and developed, and at that time general laws were first enacted commanding the respect and obedience of the entire country, and, being ratified and approved by

*For an explanation of this term see page 103.

the respective colonies, they had all the dignity of national laws.

Second Continental Congress.—The Second Continental Congress met at Philadelphia in May, 1775. At this time the battles of Lexington and Concord had taken place and the authority of Congress was recognized as the supreme power of the land. Congress at once assumed management of the continental army, raised money for prosecuting the war with England, and, on behalf of the united colonies, entered into negotiations with foreign countries. The exercise of such powers as these is one of the attributes of sovereignty, and, with the creation of a central government representing the entire country, the history of the American Union commences.

The Continental Congress has been called a revolutionary body, because there was no legal authority for its existence. Its organization was the spontaneous act of the people, caused by the pressing necessity for some central government. It assumed to act with an authority which it did not really possess, because no powers had ever been conferred upon it expressly by the people, and its existence was due solely to the necessity of meeting the crisis occasioned by the war with England.

The most of its acts had the effect of general laws, as they met with the consent and approval of the people; otherwise Congress would have been powerless to enforce its own commands.

Need of a Central Government.—Such a government as this could not be otherwise than inefficient and unsatisfactory, and with the Declaration of Independence, the need of a stronger central government was more apparent than ever, for then the united colonies assumed a

place among the sovereign, independent nations of the world and required a government having at least power to enforce the obedience of its own citizens.

The problem of framing such a government was difficult under the conditions which then existed. Community of race and language, similarity of political institutions, common interest and common dangers, all impelled the colonies toward a strong federal union, but, on the other hand, the spirit of distrust and jealousy, the fear that the larger colonies would absorb the smaller and the feeling of local pride on the part of the different colonies tended to keep them apart.

Articles of Confederation.—Accordingly, in the year 1777, the Articles of Confederation were prepared and submitted to the people of the colonies for approval. This approval was necessary, because the principle that the powers of the government could be exercised only with the consent of the governed had been enunciated by the Declaration of Independence. The object of the Confederation was stated to be the formation of a "league of friendship" between the States "for their common defense and the security of their liberties and their mutual and general welfare." The Articles of Confederation were finally adopted in the year 1781, when the war with Great Britain had practically ceased; but government under them was a failure, because their plan, while contemplating the creation of a national government, still did not deprive the states of their sovereign powers and left them undisturbed in the exercise of powers inconsistent with the theory of a strong central government.

For example, it is impossible for any government to exist unless it has the power of raising money with which to meet its obligations. This must be done by taxation,

which is simply a method of taking a certain amount of the private property of citizens and applying the same to the payment of the expenses of the government incurred for the common good of all.

Under the "league of friendship" the expenses of government were to be paid out of the common treasury, supplied by the States in proportion to the value of all land within each State, but the taxes for paying that proportion were to be levied by the legislatures of the several States. Consequently, no matter how seriously Congress might need money, it could obtain none unless the States carried out their compact and levied the necessary taxes, a thing which they generally failed to do. Hence, at the very outset, we find the national government absolutely without the power of taxation, probably the most necessary and fundamental prerogative for any government to possess.

Another of the inseparable attributes of sovereignty is the power to make treaties with foreign nations for the purpose of regulating trade between the countries. Under the Articles of Confederation, Congress had no such power, and consequently Spain and Great Britain refused to make any commercial treaties with the new government, and, in addition, did all they could to hamper the commerce of the States by exacting burdensome taxes upon imported goods and by other restrictions upon trade. This condition of things imposed great hardship upon the people of this country, because they were neither able to purchase abroad many articles of necessity not manufactured here, nor could they dispose of their own agricultural products, which constituted their chief wealth.

A short experience with the scheme of government furnished by the Articles of Confederation served to show that numerous amendments were required to promote the effi-

ciency of the government, and that without such amendments the union of the States, instead of being perpetual, as the Articles had planned, was in constant danger of complete disruption. When this conclusion was reached another glaring defect was found, in that it was provided by these Articles that no amendment could be made unless agreed to in a congress and afterward confirmed by the legislatures of all the States, thus rendering it extremely difficult, if not in many cases absolutely impossible, to secure any alteration in the governmental system.

The Critical Period.—Many other defects in the Articles of Confederation might be mentioned, but these few will serve to show how imperfect was the system. After the close of the Revolutionary War, and from 1781 to 1789, the condition of the country was deplorable. This has been called "the critical period of American history," because then the chances for the success of popular government in this country were about evenly balanced. It was, indeed, "a time that tried men's souls," as had been said of the Revolutionary period.

The close of the war had left the country burdened with a large debt, on which Congress could not pay the interest, because it had no money and no means of getting any. States often refused to pay their due proportion into the public treasury. Open rebellion existed in some parts of the country and Congress was powerless to enforce order. No gold was in circulation and paper money had been issued by the States and by Congress to such an extent as to depreciate its value and render it worthless. Commerce was at a standstill and the entire country was bankrupt. Thoughtful people feared a state of anarchy would soon prevail and the disruption of the Federal Union would follow, some even believing that England would again conquer

the country, for the king's troops were still quartered in the military posts along the northern frontier.*

The Constitutional Convention. — Under such circumstances as these the necessity for a stronger central government became imperative, but the result was not easy to accomplish. More than one attempt was made and failed, but finally a convention composed of delegates from all of the colonies, except Rhode Island, was assembled in Philadelphia on the 14th day of May, 1787. This convention continued in session for four months, and as the result of its labors the present Constitution of the United States was framed and presented to the people for approval.

But little is known as to the debates, which occurred during the meetings of this convention, for the only record of its proceedings which has been preserved for our study consists of the notes taken by James Madison and others, who were in attendance as delegates. These notes were very full and make most interesting reading, because they show the range of subjects under consideration and the names of those who were in attendance and participated in the discussions.

From these records we learn that the proceedings were reasonably unanimous and free from violent discussion, except upon three questions, the most important of which was the manner in which the different States should be represented in the Federal Congress. And here we again have occasion to notice distrust and suspicion on the part of the smaller toward the larger States. The representatives from the smaller States insisted that, inasmuch as the convention was forming a union of sovereign States, each of the States should have an equal representation in Con-

* See *Critical Period of American History*, by John Fiske.

gress, while on behalf of the larger States it was urged that the number of representatives from each State should be based upon its population.

This dispute was compromised by giving to each of the States an equal representation in the Senate, and providing that in the House of Representatives the number of members from each State should be determined by the population. The two remaining questions which provoked serious discussion were whether or not the slave trade should be permitted to continue, and how slaves should be counted in estimating the population of a state as a basis for determining the number of members to which it should be entitled in the House of Representatives. These questions were of immense importance at that time, but owing to the complete abolition of slavery in this country, they are now interesting to us only as matters of history.

This convention was one of the most remarkable bodies that ever met, both on account of the momentous work accomplished by it, and by reason of the personnel of its members, among whom may be mentioned Washington, Randolph and Madison from Virginia; Alexander Hamilton from New York; Benjamin Franklin and the two Morrisses from Pennsylvania; John Rutledge and the two Pinckneys from South Carolina; Roger Sherman from Connecticut—and many others, all constituting an assemblage of political thinkers whose sagacity has never been surpassed.

On September 17, 1787, the convention completed its labors, and, after the members had signed the new constitution, "it dissolved itself by an adjournment *sine die*." The journal kept by Mr. Madison gives some hint of the impressiveness of the occasion by concluding with the following narrative:

"Whilst the last members were signing, Doctor Franklin, looking toward the President's chair, at the back of which a rising sun happened to be painted, observed to a few members near him that painters had found it difficult to distinguish, in their art, a rising from a setting sun. 'I have,' said he, 'often and often, in the course of the session, and the vicissitudes of my hopes and fears as to its issue, looked at that behind the President, without being able to tell whether it was rising or setting; but now, at length, I have the happiness to know that it is a rising and not a setting sun.'"

The prophecy of the venerable philosopher and patriot has proved to be true, for, after more than a century of trial, under varying conditions and unforeseen dangers, the American Constitution has come to be regarded as a masterpiece of political wisdom, not only by those who directly enjoy its benefits, but by students of political institutions throughout the world. Encomiums without number have been lavished upon it, but none is more forcible and sincere than the words of the English statesman, Mr. Gladstone, who says:

"As far as I can see, the American Constitution is the most wonderful work ever struck off at one time by the brain and purpose of man."

Equally significant are the following words of Mr. Froude, the great English historian:

"The problem of how to combine a number of self-governed communities into a single commonwealth, which now lies before Englishmen who desire to see a federation of the Empire, has been solved, and solved completely, in the American Union. The bond which, at the Declaration of Independence, was looser than that which now connects Australia and England, became strengthened by time and

custom. The attempt to break it was successfully resisted by the sword, and the American Republic is, and is to continue, so far as reasonable foresight can anticipate, one and henceforth indissoluble."

These are the words of disinterested critics and therefore cannot be attributed to patriotic enthusiasm.

The constitution was finally ratified by the requisite number of States in June, 1788, and since that time it has been the supreme law of the land.

CHAPTER VI.

OUTLINE OF THE FEDERAL GOVERNMENT.

The preamble of the constitution states, within its few lines, that it is the act of the people of the United States in whom the sovereign power is vested, and also shows, in remarkably small compass, the legitimate objects for which governments exist.*

The best government is that which secures such objects as are mentioned in the preamble with the least sacrifice of personal rights on behalf of the citizens, and the least interference with local affairs on the part of the general government.

In commencing our study of the Constitution, we notice the division of the government into three branches—legislative, executive and judicial—and observe that the scope of each of these departments is strictly defined, so that there may be no dispute between the different branches as to the duties with which each is charged by the constitution.

The legislative powers of the government are vested in a Congress of the United States, consisting of a Senate and House of Representatives, the Senate being designated sometimes as the upper house and the House of Representatives as the lower house of Congress. Congress must assemble at least once in each year, and the

* For text of preamble, see Appendix A.

session commences on the first Monday in December at the City of Washington.

House of Representatives.—The House of Representatives is composed of members chosen every second year by the people of the different States. To be eligible for the office of representative in Congress a person must be at least twenty-five years of age and have been for seven years a citizen of the United States, and must be an inhabitant of the State from which he is chosen. The number of representatives to which any particular State is entitled depends upon the population of the State, the only persons excluded in determining the number of representatives at this time being Indians.

At the time of the adoption of the Constitution each State was allowed one representative for every 30,000 of population, but every State having a population of less than 30,000 was entitled to one representative. At the present time the ratio of representation is determined by the census of 1890, and each State is allowed one representative for approximately every 175,000 of inhabitants. The Constitution makes no provision for the appointment of any officers of the House of Representatives except the presiding officer, who is called the Speaker, and who must be a member of the House. Other officers, such as the Clerk, Sergeant at Arms and Chaplain, are not members of the House.

Senate.—The Senate of the United States is composed of two Senators from each State, chosen by the State Legislature for a term of six years. The members of the first Senate were divided into three classes, holding their offices respectively for terms of two, four and six years, so that the term of office of one-third of the Senators expires every second year, and it consequently never happens that the Senate is composed entirely of new members. In case the

office of Senator from any State becomes vacant while the legislature of the State is not in session, the governor has power to make a temporary appointment until the legislature meets. It has generally been held that the governor does not have power to make a temporary appointment in case of vacancies occasioned by a failure of the legislature to elect, although in recent years several such appointments have been attempted to be made.

The qualifications of a Senator are that he must be at least thirty years of age and must have been a citizen of the United States for nine years, and must be an inhabitant of the State from which he is chosen. The Vice-President of the United States is the presiding officer of the Senate, but he has no vote unless the Senate is equally divided. All other officers of the Senate are chosen by the Senators, and among them is a president *pro tempore*, who presides in the absence of the Vice-President and performs all of the duties of the Vice-President in case the Vice-President is required to exercise the duties of the President, as was the case when Chester A. Arthur became President of the United States by reason of the death of President Garfield.

Executive Department.—The executive power of the government is vested in the President, who holds his office for four years. No person can be President of the United States except a natural-born citizen who has attained the age of thirty-five years and who has been for fourteen years a resident within the United States. In case of the removal of the President from office or of his death, resignation or inability to act, all of the duties of the office devolve upon the Vice-President, and Congress has power to provide by law who shall act in case of the death, resignation or disability of both President and Vice-President. In such case an Act of Congress, passed in the year 1886, has determined

that the presidential office shall devolve upon the officers composing the President's cabinet, in the following order: Secretary of State, Secretary of the Treasury, Secretary of War, Attorney-General, Postmaster-General, Secretary of the Navy, Secretary of the Interior.

Method of Electing the President.—The method of electing a President and Vice-President is a peculiar one, which was devised by the framers of the Constitution to avoid submitting to a popular vote the election of these important officers, they deeming it unsafe to leave to the excitement of a political campaign the question of determining who shall occupy these positions. Accordingly they devised a scheme known as the Electoral College, under which each State chooses a number of electors equal to the number of Senators and Representatives to which the State is entitled in Congress.

These electors are chosen by popular vote, and shortly after their election they are required to meet in their respective States and vote by ballot for President and Vice-President, one of whom at least shall not be an inhabitant of the same State with themselves, naming in their ballots the person voted for as President and in distinct ballots the person voted for as Vice-President. After they have voted, three lists are made of all persons voted for as President and Vice-President, with the number of votes for each. These lists are signed and certified by the electors and sent to the Capitol of the United States at Washington, directed to the President of the Senate.

The method of transmitting these certified lists to the President of the Senate is interesting. One copy is delivered to him at Washington by a special messenger before the first Wednesday in January succeeding the election; another is sent to him by mail; and the third is committed

to the custody of the judge of the district, to be delivered by him to the Secretary of State, in case neither of the other certificates has been received by the proper officer at Washington before the first Wednesday in January.

Counting the Vote.—The President of the Senate is required to open the certificates in the presence of the Senate and House of Representatives and count the votes. The person having the greatest number of votes for President is elected, provided such a number be a majority of the whole number of electors. If no person has such a majority, then from the persons having the highest number of votes, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose by ballot the President, but in voting for President the House votes by States, each State being entitled to one vote.

In a similar manner the person having the greatest number of votes as Vice-President shall be the Vice-President, if such number be a majority of the whole number of electors, and if no person has a majority then the Vice-President is chosen by the Senate from the two highest numbers on the list. No person can be elected to the office of Vice-President unless he has all the qualifications necessary to make him eligible for the office of President.

Judicial Department.—The judicial department of the United States is vested in one Supreme Court and in such inferior courts as Congress from time to time shall establish. All of the judges of these courts hold their offices during good behavior, consequently an appointment to an office of this kind is highly prized, for it is practically an office for life. The jurisdiction of the United States courts extends to two classes of cases, one class being dependent upon the laws applicable to the case, and the other class being dependent upon the character of the persons engaged

in the litigation. Among the first class of cases are those arising under the Constitution of the United States, the laws of Congress and the treaties between the United States and foreign governments, and under the second class are included cases affecting ambassadors and other public ministers and consuls and the controversies in which the United States or any of the States shall be a party, and between citizens of the different States or of foreign States.

Treason.—In connection with the judicial department it is proper to note the only crime against the United States which is defined by the Constitution—viz: the crime of treason, which consists solely in levying war against the United States or in adhering to its enemies, giving them aid and comfort. In former times treason has had a much wider definition, and history is filled with accounts of persons who have been condemned to death or to severe penalties for committing comparatively small offenses, because these offenses happened to be within a category of crimes any one of which constituted treason. For this reason the framers of the Constitution no doubt thought it necessary for the protection of future generations that the meaning of the word treason should be definitely established.

This, in brief, is an outline of the framework of the government of the United States, and its simplicity is probably its most notable feature. In subsequent chapters we shall show in detail the powers and duties of each of the departments of the government, and, as we proceed, the wisdom of the framers of the Constitution will become more and more apparent, in devising a scheme of government based upon the requirements of a nation having a few millions of inhabitants, but which has been found sufficient to meet all the requirements for so many years, with all the changes

resulting from an enormous increase in population and the difference in conditions existing between life at the present day and that of 100 years ago.

NOTE: In connection with the study of this chapter frequent reference should be had to the text of the Constitution, which will be found in Appendix A.

CHAPTER VII.

THE POWERS OF CONGRESS.

The powers of Congress are so numerous and important as to require special attention and explanation, otherwise the few brief paragraphs in the Constitution containing the grant of these powers will not be fully understood, and the student will fail to obtain a full comprehension of the wide range of subjects upon which Congress is authorized to legislate.

Taxation.—The power of levying taxes is one of the indispensable attributes of sovereignty, because no government can exist unless it is able to raise the necessary funds for its support. Probably from these considerations the first power granted to Congress by the Constitution was the power to lay and collect taxes, duties, imposts and excises, subject to the single condition that they shall be uniform throughout the United States. All of the laws enacted by Congress upon the subject of taxation are based upon the authority conferred by these few words. These laws must originate in the House of Representatives.

Duties and Excises.—A tax may be defined as that portion of his property which each citizen is obliged to contribute for the support of the government. Duties, imposts and excises are different kinds of taxes, each word having a distinct meaning indicating the nature of the tax designated by it. Duties are taxes imposed by the government upon the importation and sometimes upon the exportation of merchandise. An impost is another term

used to designate a tax on imported goods, having practically the same signification as the word duty. Excises are also called internal revenue taxes and are laid upon a few articles produced, manufactured or sold in this country, principally tobacco, cigars and distilled liquors.

In times of peace all of the revenues of the United States government are derived from duties and excises, but in times of war, when the government is under increased expense, a great variety of additional internal revenue taxes is imposed in order to pay for the cost of supporting the army and navy and carrying on military and naval operations, often costing several millions of dollars each day.

Tariff.—Duties are collected by government collectors, who are stationed at all of the important seaports and border towns, who inspect all merchandise brought into the country, determine the amount of tax upon each article and see that the tax is paid before the articles are delivered to their respective owners. A list of the articles upon which a duty is charged, together with the rate of duty upon each of such articles, is called a tariff, and the government office where the business incident to the collection of duties is transacted is called a custom house.

Indirect Taxes.—Taxes of this kind are called indirect taxes, because they are finally paid by the person who purchases the imported goods for his own use. For instance, a merchant in the United States purchases silk ribbon in France at the rate of twenty-five cents per yard. Upon its arrival in this country he is obliged to pay a duty at the rate of fifty per cent of its cost. A few weeks later he sells the ribbon over the counters of his retail store for a price sufficient to pay the original cost, together with the duty which he has paid, the cost of transportation and a reasonable profit for his labor and trouble. Thus, a lady who buys

this ribbon to furnish decorations for her hat or dress indirectly pays the tax to the government.

Direct Taxes.—Direct taxes are those which are imposed upon specific kinds of property, such as land, houses, pianos, watches, jewelry, carriages or sewing machines. A poll tax is also a direct tax. The United States government levies no direct taxes whatever, but leaves that form of taxation to be employed by the States.

Borrowing Money.—Closely connected with the power of raising money by taxation is the power to borrow money on the credit of the United States to meet the expenses of the government. It is seldom necessary for Congress to avail itself of this power in times of peace, because, under ordinary circumstances, a well-devised system of taxation will provide sufficient revenue to carry on the government; but when war occurs or for other reasons the government is put to extraordinary expenses, then Congress has the power to raise funds by borrowing. In such a contingency Congress enacts a law determining the amount of money to be borrowed, the nature of the securities, usually bonds, to be given to the lenders, the rate of interest to be paid and the time and place for the payment of the principal and interest. When this has been done the securities are placed in the hands of the Secretary of the Treasury, who delivers them to the persons lending the money to the government. The credit of the United States government is so good that it never has any difficulty in borrowing enormous sums of money at a low rate of interest.

Regulating Commerce.—The power to regulate commerce with foreign nations, which is conferred upon Congress, is the source of a large number of laws enacted for the purpose of protecting American ships and controlling the conduct of sailors on board them, as well as caring

for American commercial interests in foreign lands. To protect the commercial interests of our citizens in other countries, the government has agents called consuls stationed at all important foreign ports, who perform all acts necessary to prevent fraud or injustice in the treatment of citizens of the United States. Under the same grant of power Congress has made provision for establishing light-houses, improving harbors, inspecting vessels, and has made many rules, such as those relating to quarantine and the employment of competent pilots, all of which are designed for the protection of our citizens and merchants.

Inter-State Commerce.— Under the same clause of the Constitution, Congress is given power to regulate commerce between the States, and in 1887 it exercised this power by passing a law, called the Inter-State Commerce Act, to afford relief from many of the abuses then prevalent in connection with the management of the railroad systems of this country. By this law railroads are forbidden to discriminate between persons by giving a lower freight rate to one shipper than to another, or to favor any particular city or locality by giving to it more advantageous freight rates than to another.

They are also prevented from entering into combinations tending to destroy competition by keeping up the price of passenger transportation and freight charges, and it is made unlawful for them to attempt to influence public officers by giving them free passes. To provide for the enforcement of this law Congress created the Inter-State Commerce Commission, which is composed of five members, appointed by the President and called Commissioners. This commission hears and determines all questions arising under the Inter-State Commerce Law, and is rapidly becoming one of the most important tribunals in the

whole country, owing to the number and magnitude of the matters coming before it for adjudication.

Coining Money.—The next power of Congress which we shall notice is one with which the commercial interests of the country are deeply concerned—namely, the power to coin money and regulate the value thereof. No business of any kind can be transacted without money, which is a medium enabling a citizen to exchange one commodity for another. In civilized communities no one person produces everything which he needs for his own use, but devotes his energies to the production of a few articles only. The farmer raises more corn and potatoes than he can use, and the surplus he exchanges for clothing for himself and family and for other articles which he cannot produce on his farm. As it is not easy to find a person who has a stock of clothing which he wishes to exchange for corn or potatoes, the farmer accomplishes his purpose by selling his products for money, and with that money he purchases such articles as he needs.

Money may, therefore, be defined as a medium of exchange in commercial transactions. It is also a standard for determining the value of all the different kinds of property. It follows that the money used must be of uniform value throughout the country, and that the monetary system must be fixed and certain. For this reason the United States government alone has the power to coin money and to issue bills and notes which circulate as money.

Different Kinds of Money.—In the United States the standard of value is the gold dollar,* and to provide the money necessary to carry on the business transactions of the country Congress has, from time to time, enacted

*The gold dollar weighs 25.8 grains, of which 23.22 grains are pure gold and 2.58 grains are alloy.

laws under which different kinds of money have come into use.

Gold coins of various denominations are made at the United States mints, the most frequently used being the \$20, \$10 and \$5 gold pieces. Uncoined gold in blocks and bars is equally valuable, and where large payments in gold are to be made is preferable because it is more easily handled and does not lose its value as gold coins do by the friction of one upon the other. Gold coin and gold bullion are also deposited in the United States Treasury and the depositor receives for his gold a kind of paper money called a gold certificate, certifying that gold equal in amount to the face of the certificate has been so deposited, and that the holder of the certificate can exchange it for gold at any time he wishes. These certificates are used for convenience, as gold in large quantities is a bulky commodity and gold coin depreciates in value by the wear incident to constant handling.

The United States government at the present time coins silver money of four denominations—the \$1, 50-cent, 25-cent and 10-cent pieces, the last three being termed subsidiary coins. Silver certificates are issued in the manner that has been described in speaking of gold certificates, but in smaller denominations. Silver bullion is not used as money, because the silver contained in a silver dollar is less valuable than the gold contained in a gold dollar, and consequently silver bullion is less valuable, according to its weight, than silver dollars.

Minor coins, consisting of 5-cent pieces, or nickels, as they are ordinarily termed, and copper cents, are furnished, as they are convenient in small business transactions and their use is a matter of daily necessity.

Treasury notes are promissory notes issued by the gov-

ernment. They are sometimes called "greenbacks," and were first issued during the civil war. At first they were not exchangeable for gold or silver coin, and their value depended wholly upon the credit given to the government and the confidence of the public in the government's ability to pay its debts, for these notes were evidences of government indebtedness, just as is the case with the promissory note of an individual. In the year 1879, provision was made by Congress for the redemption of these notes in coin, and for that purpose a reserve fund of \$100,000,000 in gold coin or bullion is kept in the treasury at all times, and these notes are now just as valuable as gold or silver certificates.

National bank notes are a kind of money issued by national banks throughout the country, but subject to conditions imposed by Congress. National banks are corporations* organized under and by virtue of an Act of Congress. This act provides that a portion of the capital of the bank must be invested in bonds of the United States, which must be deposited in the United States Treasury. The banks are then allowed to issue their promissory notes to the extent of the face of the bonds deposited by them. These notes are payable in coin or greenbacks and circulate as money, because their payment is guaranteed by the government, and consequently they are just as valuable as if they had been issued by the government itself.

*A corporation is an institution, created by governmental power, composed of individuals and exercising powers and privileges not possessed by the persons composing it. The most important of these are continuous legal identity and perpetual succession under the corporate name, notwithstanding the changes in the members by death or otherwise. Chief Justice Marshall said: "A corporation is an artificial being, invisible, intangible and existing only in contemplation of law."

A large portion of the business transactions of the present day is transacted by corporations, such as banks and insurance, railroad and telegraph companies and other organizations in almost every branch of industry.

Patents and Copyrights.—Congress has power to protect inventors and authors by securing to them for limited periods the exclusive right to their respective inventions and writings. The wisdom of granting such protection as this to promote the progress of science and the useful arts is manifest, for advancement in civilization and power goes hand in hand with the progress of science. In exercising these powers, Congress furnishes protection to an inventor by granting him a patent upon his invention, and to an author or artist by giving him a copyright on his writings or drawings.

A patent is an instrument in writing by which the United States Government guarantees to an inventor the exclusive right to manufacture and sell his invention for a period of seventeen years. The granting of patents is under the charge of the Commissioner of Patents, whose office is a branch of the executive department of the government.

A copyright secures to an author or artist the exclusive right to print, publish, manufacture and sell his writings or works of art for the period of twenty-eight years, at the expiration of which it may be renewed for an additional period of fourteen years. Copyrights are granted by the Librarian of Congress, who is an independent executive officer directly under the control of Congress and not attached to any of the executive departments.

Bankruptcy.—The power of Congress to establish uniform laws on the subject of bankruptcy throughout the United States is one that has recently been exercised by the enactment of a law called the National Bankruptcy Law. A bankrupt is a person who, through business misfortunes or for other reasons, is unable to pay his debts, or whose debts are greater in amount than the value of all of his property. Under such circumstances it is right and

just that the debtor should surrender all of his property to his creditors to be divided among them in proportion to their respective claims, and, having done so honestly, that he should be released and discharged from all further obligation to pay the balance of his debts. In this way, all creditors alike are enabled to secure their just proportion of the debtor's assets and the debtor is allowed to commence business anew. To secure these results the present bankruptcy law was passed and is now in operation under the control of the various District Courts of the United States.

Naturalization.—Another very important power conferred upon Congress is that of establishing a uniform rule of naturalization—that is, of determining in what manner and under what conditions persons born in foreign countries may become citizens of the United States. These rules should be the same in all States, because the Constitution declares that the citizens of each State shall have all the privileges of citizens of every other State. Therefore, in order to secure this uniformity, it follows that naturalization laws must be enacted by the United States Government.

These laws require that the subject of a foreign state who wishes to become a citizen of the United States must make a declaration of his intention in that behalf under oath before a court of competent jurisdiction. When this has been done, a record is made of the declaration and a certificate showing the proceeding is given to the applicant. After the expiration of at least two years, the process is completed by applying to the court for a final certificate of naturalization. At this time the applicant is required to prove by a credible witness that he has resided in the

United States at least five years, and in the State where the application is made at least one year; that his moral character has been good during this period, and that he is attached to the principles of the Constitution and well disposed toward the Government of the United States. The candidate for citizenship should have a fair knowledge of the Constitution and government of this country. After this proof has been made, the applicant is required to take an oath in which he renounces allegiance to all foreign powers and potentates, specifying in particular the one to which he has been subject, and declares that he will support the Constitution of the United States. The process is now complete and a certificate of naturalization and citizenship is given to the applicant by the court in which the proof has been made.

An applicant for citizenship who came to this country before he was eighteen years of age is not required to make the original declaration of intention, and soldiers in the United States army who have been honorably discharged may take the oath of allegiance after one year's residence in this country.

Territorial Government.—The fundamental law of all territories of the United States is the Constitution, but the form of government of a territory is determined by Congress. The power of organizing the government of a territory is vested in Congress by a few words of the Constitution, authorizing that body to "make all needful rules and regulations respecting the territory or other property belonging to the United States."*

The political rights granted to the inhabitants of a territory depend upon many considerations, among which are

*See Sec. 3, Article IV, of Constitution.

the extent and character of the population, the education of the people and their ability to manage local affairs.

It is, therefore, impossible to describe in detail the form of government employed in the territories, because it has differed somewhat in each case. Generally speaking, the right of local self-government has been recognized by Congress, but the people of the territory have no voice in federal affairs. A Territory has no constitution, its place being supplied by the act of Congress under which the Territory is organized. This act usually determines the qualifications of voters, describes the powers of the Territorial government, provides for the appointment of a governor and judges by the President, and establishes legislative, judicial and executive departments, limiting and defining their powers and relations to each other.*

Classification of Powers of Congress.—The powers conferred upon Congress are for the most part enumerated in Section 8 of Article I of the Constitution, and so concise and explicit is the language employed that it is difficult to find a single superfluous word in the entire section. It is, therefore, necessary that every student of the Constitution should be familiar with the contents of this section, as well as a few other sections containing grants of power to the United States Government. To assist in attaining this familiarity without attempting to memorize the text of the Constitution, the following classification of the powers of the United States Government, made by a distinguished commentator, who was one of the framers of the document, will be found to be useful, the basis of classification being the objects sought to be accomplished by the granting of the various powers:

*See Chapter XIII for brief description of the government of the Northwest Territory.

1. Powers granted in order to afford security against foreign danger, among which may be included those of declaring war, raising and supporting armies, providing and maintaining a navy, making rules for the government of the land and naval forces, and levying taxes and borrowing money.

2. Powers necessary for the regulation of intercourse with foreign nations, which include the power to regulate foreign commerce, to define and punish piracy and other offenses against the law of nations, and certain powers vested in the executive branch of the government relating to the making of treaties and sending ambassadors, ministers and consuls to foreign nations.

3. Those powers which have for their object the maintenance of harmony and proper intercourse among the States. This class is the most numerous of all, and in it may be included the powers to regulate commerce among the several States; to coin money and regulate its value; to provide for the punishment of counterfeiting the securities and coin of the United States; to establish a uniform rule of naturalization and bankruptcy laws; to establish postoffices and post roads; and also certain restraints upon the power of the States and certain judicial powers, which will be described hereafter.

4. Powers for the promotion of certain miscellaneous objects of general public utility. This class includes the power to protect inventors and authors by granting patents and copyrights; the power to exercise exclusive legislation over the territory known as the District of Columbia, in which the seat of the government is located, and a similar authority over all forts, arsenals, magazines, dockyards and other needful buildings; to declare the punishment of treason; and certain powers relating to the gov-

ernment of States and Territories, and to the admission of new States into the Union.

5. Certain provisions enabling Congress to exercise efficiently the powers given to it. The first of these provisions gives to Congress the power to make all needful laws for carrying into execution the foregoing powers and all other powers vested by the Constitution in the Government of the United States, or any of its departments or officers, and the second is that provision which makes the Constitution and laws of the United States the supreme law of the land, notwithstanding anything to the contrary contained in the Constitution and laws of any State.

NOTE.—The classification above given is adapted from articles in *The Federalist*, of which James Madison was the author.

CHAPTER VIII.

THE EXECUTIVE DEPARTMENT.

The few sections of the Constitution relating to the executive department give but a slight idea of the number and importance of the duties discharged by this branch of the government, and if we confined our investigation solely to a consideration of the functions of those executive offices created by the Constitution, we should be limited to the President and Vice-President, who are the only officers of that department therein mentioned. Bearing in mind that the members of the President's Cabinet, eight in number, the heads of numerous bureaus and departments, commissioners of various kinds, the general-in-chief of the army and his subordinates, the admiral of the navy and many others, all are executive officers, it may seem strange that the framers of the Constitution neglected to embody in that document more detailed provisions as to this department.

On the other hand, recollecting that in 1789 the nation had a population of only a few million inhabitants and that the essential framework of a government for the country in those days was simple as compared with the requirements of the present day, it is an additional evidence of the wisdom of our forefathers that they did not attempt to provide in express terms all of the details of the executive branch of the government which might be rendered necessary by the change in conditions incident to the growth and development of a century of progress.

The framers of the Constitution vested the executive power in the President alone, giving him authority to appoint certain other executive officers, but had sufficient foresight to leave with Congress power to create such other offices, subordinate to the President, as future circumstances might require. Therefore, the executive department as it exists to-day and the duties of all executive officers, with the exception of the President and Vice-President, are dependent upon acts of Congress and not upon provisions of the Constitution.

POWERS AND DUTIES OF THE PRESIDENT.

Commander-in-Chief.—The President, by virtue of his office, is commander-in-chief of the army and navy and of the militia of the various States when called into the actual service of the United States. It has happened in many cases that the President has been a man of military experience and well qualified to act as commander of the army, but the office has never been filled by a man having a naval training, and in most cases the President has not been qualified by personal experience to command either the army or the navy. Therefore, the actual management of these branches of the government is left to the war and navy departments, while the President, as commander-in-chief, appoints the heads of these departments and other subordinate officers. He also has the power of assigning officers of the army and navy to their stations and duties and of controlling the movements of both branches of the service and of determining the plans to be followed and the policy to be pursued in their management.

Opinions of Executive Officers.—To aid and guide him in the discharge of his duties he may require the opin-

ion in writing of the head of any of the executive departments upon any subject relating to the duties of the department, and thus he is able at all times to obtain expert advice upon questions concerning which he may not have personal knowledge. The power thus given to the President to demand this assistance implies a requirement that the officer whose opinion is sought shall give it fully, honestly and exhaustively.

Reprieves and Pardons.—The President can grant reprieves and pardons for offenses against the United States, except in cases of impeachment. A *reprieve* is an order delaying the execution of a sentence for a specified time, and a *pardon* is a grant of complete absolution from the consequences of criminal offense. Under monarchical governments the power of granting reprieves and pardons is a royal prerogative and is exercised only by the sovereign.

Treaties.—With respect to the relations between our government and foreign nations, the President is charged with the exercise of powers and the discharge of duties of great importance. He has the power of making treaties, which are agreements between two or more nations relating to matters which concern the welfare of the inhabitants of the contracting nations, such as commerce, boundaries, claims of citizens of one country against the government of another, the rights of a citizen of one country to acquire and hold property within the territory of another, the making and preservation of peace and the extradition of criminals.

While the President has the power of making a treaty, he does not personally conduct the negotiations with a foreign country, but appoints one or more persons, who meet with the representatives of the foreign power and discuss

the subject matter of the treaty, acting at all times under the direction of the President. In order to negotiate a treaty it is necessary that a single officer should have the power of representing the government, hence this power is given to the President. But treaties as well as the Constitution are the supreme law of the land, and a treaty has all the effect of a law in regulating the dealings of the citizens of the different countries with each other; therefore, the legislative branch of the government should be consulted in the making of laws of so much importance. Hence the Constitution provides that, before any treaty can become operative, it must receive the consent and approval of two-thirds of the Senators of the United States.

Ambassadors and Ministers.—With the advice and consent of the Senate the President appoints ambassadors and other public ministers and consuls, who represent the interests of our country at the capitals and principal cities of all the nations of the world. He also receives the ambassadors and public ministers from other countries who are accredited to our government. Every civilized nation sends a representative to each country with which it is on friendly terms, for the purpose of carrying on negotiations and protecting the interests of the nation and its people in the foreign land. This system is called the diplomatic service. The officers in the diplomatic service of our government are of four grades—*ambassadors*, who represent our country at the most important capitals, such as those of England, France, Germany, Mexico and Russia; *envoys extraordinary and ministers plenipotentiary*, who are sent to those countries which are not represented at our capital by ambassadors; *ministers resident*, who are officers of a lower rank than the two preceding and are our representatives at the capitals of second-rate powers; and *chargés*

d'affaires, who are accredited to those countries with which we have but few relations.

Consuls. — Consuls are officers of a different class, appointed by the President. They are not diplomatic agents of the government, but may properly be called its commercial agents, whose duty it is to protect our commercial interests in foreign countries and our vessels, seamen and citizens and their property in foreign ports. They are of three grades—consuls-general, consuls and consular agents—the classification being based upon the relative importance of the places at which they are stationed. A consul must receive from the government of the country in which he is located a document granting him permission to enter upon his duties. This document is called an *exequatur*, and in our country it is issued to foreign consuls through the office of the Secretary of State.

Consuls have many duties to perform, among which may be mentioned—taking care of destitute American sailors, certifying shipments of merchandise, examining emigrants, certifying the proper execution of legal documents and furnishing to their own government monthly reports upon matters of commercial or political interest.

Power of Appointment.— The Constitution also gives to the President the power of appointing all other officers of the United States except those whose selection is regulated by the Constitution, but reserves to Congress the right of determining whether or not the appointment of inferior officers shall be made by the President alone, by the courts of law or by the heads of departments. In the exercise of his power the President appoints a vast number of officers, such as judges of the different United States courts and other officers connected with the administration of justice, district attorneys, marshals and commissioners of various

kinds, the members of his Cabinet and heads of departments, collectors of customs and of internal revenue, the postmasters in large cities, officers of the army and navy, governors and judges for the territories and surveyors of public lands. The number of officers appointed by the President is so large that the work of obtaining information on these matters must be left largely for your own investigation.

The President's Veto.—Before an act of Congress can become a law, it must be submitted to the President. If it meets with his approval, he signs it and by his signature makes it a law. In case it does not meet with his approval, he returns it to the House in which it originated, accompanied by a message, stating the reasons of his disapproval. This must be done within ten days after the bill has been presented to him. In case the President does not sign or return the bill with his objections within ten days, it becomes a law without his signature, unless Congress adjourns within the period. In case of such adjournment within the ten days, the bill does not become a law, and the retaining of it by the President under such circumstances is called a "*pocket veto*."*

After a bill has been vetoed by the President, it can become a law without his signature, if it is passed by a two-thirds majority in each House of Congress.

Messages.—The remaining duties of the President will not be given special attention, with the exception of the requirement that he shall, from time to time, give to Congress information of the state of the Union and recommend to it such measures as he shall judge necessary and expedient. This is an important official duty, because the President is better informed as to what legislation is necessary

* The word *veto* was originally a Latin verb meaning "I forbid."

and should be enacted than the members of Congress, who, during the interim between the sessions of that body, are largely concerned with their own private affairs.

In fulfilling this duty the first two Presidents opened the sessions of Congress with an address delivered in person to both Houses, but after the lapse of a few years this practice was criticised as being an imitation of the address made by the King of Great Britain at the opening of Parliament; therefore it was abandoned during the administration of Thomas Jefferson, who inaugurated the custom of sending a written message to Congress to be read to both Houses at the opening of the session.

It is usual for the President to review in his message, in general terms, such important matters connected with the administration of the government as he deems it proper to mention and to recommend such legislation as he thinks the necessities of the country demand. The acceptance or rejection of such recommendations depends largely upon the confidence which the members of Congress have in the President, and it frequently happens that his communication is practically ignored when a majority of the members of Congress belong to the opposite political party.

His Responsibility.—It is the duty of the President to convene special sessions of Congress when extraordinary occasions may require, and to adjourn such sessions to any time which he may think proper. The responsibility for the faithful execution of all of the laws of the United States devolves upon the President, and therefore he is held accountable for the negligence and mistakes of officers appointed by him, although he personally may have had no connection with their acts.

IMPEACHMENT.

The President, Vice-President and all civil officers of

the United States can be removed from office only by impeachment for and conviction of treason, bribery or other high crimes and misdemeanors. The civil officers of the United States who are subject to removal from office by impeachment are all executive and judicial officers of the government, except officers of the army and navy. This does not include members of Congress nor officers of the State government, who are liable to impeachment by the State legislature for malfeasance in office. Officers of the army and navy charged with misconduct are tried by a tribunal called a court-martial, which is composed of military or naval officers.

Definition.—The words impeachment and conviction are used in the Constitution, and it is necessary to understand the difference in these words, since they are sometimes used improperly as being identical in meaning. An impeachment means a formal accusation against an officer, and, except for the importance of the offense and the serious nature of the charge, impeachment is in no way different from any other form of legal accusation, as a complaint or indictment. Conviction means the judgment by which the person impeached is found guilty.

Procedure.—The process by which a civil officer of the United States Government is impeached and the trial of the charges against him must be commenced by the House of Representatives, which, under the Constitution, has the sole power of impeachment. The first step in the proceeding is a resolution adopted by the House of Representatives, in which the person to be impeached and the office held by him and the offense of which he has been guilty are set forth in detail. Then a committee of the House of Representatives is appointed, whose duty it is to make a formal demand before the Senate of the United States that the accused be

summoned to answer the charges against him and required to appear before the Senate for trial. Then a committee of the House of Representatives is appointed to prepare the formal charges in writing against the officer, these charges being called Articles of Impeachment. Another committee of the House of Representatives acts as prosecutors in the trial on behalf of the House of Representatives, which is the accusing body.

The Senate sits as a court for the trial of cases of impeachment, and when so acting the members must take an oath as a jury does when hearing cases between private individuals. When the President of the United States is under trial on articles of impeachment, the Chief Justice of the United States Supreme Court is the presiding officer of the Senate. This provision was probably made for the reason that the Vice-President in such a case might be regarded as an interested party, since in case of the conviction of the President the honor and dignity of the presidential office would fall to him.

The proceedings upon the trial of an officer under articles of impeachment are similar to those of a court of justice, and after the evidence has been heard and the arguments of counsel have been made, each Senator votes upon the question of whether the accused is guilty or not guilty of each specific charge. In case of a conviction in impeachment proceedings, the Constitution requires that the guilty officer be removed from his position and disqualified forever from holding any office of honor, trust or profit, under the United States Government. After a conviction has been had in impeachment proceedings, if the officer has been guilty of offenses which are punishable by law he may be again tried and punished in an ordinary court of justice, the same as a private person.

CHAPTER IX.

BRANCHES OF EXECUTIVE DEPARTMENT.

One of the chief functions of government is to enforce the laws uniformly throughout the entire country. This is performed by the executive branch, of which the President is the head, thus giving him the title of Chief Executive, by which he is sometimes designated. For administering the affairs of government the executive branch is divided into nine departments, called the Departments of State, Treasury, War, Navy, Interior, Postoffice, Justice, Agriculture and Labor. The Constitution mentions executive departments in only a few instances, but these allusions show that the framers of that instrument contemplated the creation of these departments as necessity might require. It will be our aim to learn something in this chapter of the manner in which the work of administering the laws is divided among these nine subordinate branches and to understand the systematic way in which the various duties have been subdivided so that each officer, from the head of a department down to its humblest clerk, has his individual sphere of action perfectly defined.

The Cabinet.—The head of each department, except Post Office, Justice and Labor, is called the Secretary of the Department. The head of the Post Office Department is called the Postmaster-General; of the Department of Justice, the Attorney-General; and of the Department of Labor, the Commissioner of Labor. The Secretaries of State,

Treasury, War, Navy, Interior and Agriculture, together with the Postmaster-General and Attorney-General, constitute the President's Cabinet. This is an advisory body, which holds regular meetings to give the President information concerning the several departments and to recommend the methods to be employed in dealing with the numerous questions constantly arising in the governmental affairs of our wealthy and populous nation. The existence of the President's Cabinet is due rather to custom and necessity than to any provision of the Constitution or any law of Congress. While all of the offices held by members of the Cabinet have been created by laws of Congress, these laws make no provision for the association of the heads of the departments as a Cabinet. Therefore, as a body the Cabinet has no powers and duties except to advise and assist the President.

Subordinate Officers.—Several of the departments have one or more assistant secretaries, the number of assistants being dependent upon the volume of business transacted by the department. Each of the departments is divided into bureaus, the heads of which are called Commissioners; the bureaus are divided into divisions; the head of each division is called the Chief; the clerical force of each division is assigned to various rooms under the charge of Chief Clerks. Each person employed in the departments has his specific duties to perform and each is responsible to his immediately superior officer.

The Appointing Power.—The power of appointing these officers is vested by the Constitution in the President, unless Congress provides for their appointment by the heads of the departments or otherwise, and speaking generally, all of these officers are appointed by the President or the heads of the different executive departments.

This power of appointment to office is a matter of such vital interest to the citizens of our country that every one should know the manner in which it is exercised. In the early days of the republic civil officers who were honest and competent retained their positions through successive administrations, but even then the temptation to fill the offices with political friends caused some of the early Presidents to swerve from the strict line of duty. History records that President John Adams spent the last hours of his term of office in making appointments to important public positions, in order to forestall the action of Mr. Jefferson, who was to succeed him in a few hours. So zealous was he to complete the work that when the clock struck the hour which ended his term of office he was still at his desk, signing commissions as rapidly as they could be placed before him.*

When Andrew Jackson became President in 1828 he at once removed a large number of clerks and subordinate officers and appointed in their places persons belonging to his own political party, and with a zeal worthy of a better cause his example has been faithfully imitated as far as possible by nearly every President who has succeeded him.

This practice of regarding positions in the civil service of the government as the legitimate rewards of the party successful at the polls became subversive of good government, because the inevitable tendency was to repay an active political worker for his labors by appointing him to an important public office instead of making honesty and competency the sole qualifications. After many years of discussion and agitation, Congress enacted the Civil Service Law, which requires that appointments to public office shall be based upon merit alone and that they shall not be distributed as rewards for political services.

*Morse's Life of Jefferson.

The Civil Service Law.— This law was enacted in the year 1883. It provides that the President shall appoint three commissioners, no more than two of whom shall belong to the same political party. They are called Civil Service Commissioners, and it is their duty to carry into effect the provisions of the Civil Service Law. Therefore, they are executive officers.

This law requires the commissioners to hold suitable examinations for testing the qualifications of applicants for positions in the various branches of the public service, and compels the officer who is given the power of appointment to make his selections from lists of those persons who have passed the required examinations. The law also protects employees of the government who have been appointed in this way, by forbidding their removal from office except for good cause.

A very large proportion of the subordinate executive officers of the government are subject to the provisions of this law, but the right to appoint heads of departments and many other officers filling positions of great importance still remains vested in the President.

Department of State.— The first Congress which met after the adoption of the present Constitution created the Department of State by a law enacted on January 27, 1789. The head of this department is the Secretary of State, who ranks first among the members of the Cabinet. He is sometimes called the prime minister, or *premier*, names borrowed from the English governmental vocabulary, which cannot properly be applied to the Secretary of State, for the reason that his duties have but little in common with those of the English prime minister.

The Secretary of State is the minister of foreign affairs, and has charge of all correspondence and negotiations

with the representatives of foreign governments. He is the head of our diplomatic and consular service, and gives instructions to our ambassadors, ministers and consuls. It is his duty to keep in his custody all treaties with foreign countries, as well as the laws and resolutions of Congress and the proclamations of the President. He is the keeper of the great seal of the United States and attaches it to all documents which are required to be authenticated in that way, as presidential proclamations, official commissions and requisitions for the extradition of fugitives from justice. He publishes all of the laws and resolutions of Congress and is required to report to that body from time to time, giving such information as may be needed concerning the business of his department. There are also several Assistant Secretaries of State.

The department is divided into seven bureaus, the most important of which are the diplomatic and consular, which have been sufficiently described in the preceding chapter.

The Treasury.—The Treasury Department also was created by the first Congress of the United States by law enacted on September 2, 1789. The Secretary of the Treasury ranks next to the Secretary of State, and his duties are of the highest importance. He has entire charge and control of the financial affairs of the government, and practically all legislative acts upon monetary questions are based upon his recommendations. It is his duty each year to give to Congress such information and advice as will enable that body to act intelligently in making provisions for the collection of a revenue sufficient to meet the expenses of government and protect the credit of the United States.

He must superintend the collection of duties and internal revenue taxes, the coinage of money, the engraving of the different kinds of paper money in use; the engraving of

bonds issued by the government and the payment of all obligations on the part of the government. He has charge of the Life-Saving Service, the inspection of steam vessels, the system of lighthouses, the marine hospitals and the erection of public buildings.

The business of the Treasury Department, as indicated by its disbursements alone, is so enormous as to be almost beyond comprehension. During its existence it has paid out many billions of dollars and its transactions have always been so conducted as to furnish a just reason for national pride.

The department is divided into a large number of divisions under the charge of chief officers, who are in immediate control of a great number of subordinates, not only in Washington, but in all parts of the country and in every place under the jurisdiction of the United States. So numerous are these officers that we can refer to only a few of them.

The Treasurer of the United States receives and disburses all of the moneys of the government. He has charge of the entire treasury system, including the national treasury at Washington and the sub-treasuries which have been established in the various large cities of the country for convenience in receiving and disbursing the money of the government.

The Register of the Treasury has charge of the book-keeping and accounts of the government. The auditors examine and pass upon the accounts and expenses of the various branches of the government. The national banking system is under the supervision of the Comptroller of the Currency. The Commissioner of Customs superintends the government custom houses and the collection of duties.

Other important officers of the Treasury Department

are the Commissioner of Internal Revenue, Chief of the Bureau of Statistics, Superintendent of the Bureau of Printing and Engraving, Director of the Mint, Superintendent of the Life-Saving Service, Solicitor of the Treasury, Supervising Architect and Commissioner of Navigation.

War Department—The third executive department, created by the first Congress is the War Department, which originated with an act of Congress passed in August, 1789. During Washington's administration the heads of the three departments of State, Treasury and War constituted the President's cabinet, and during that period the naval affairs were under the charge of the War Department.

The War Department has control of the military affairs of the nation, and it also acts as a department of public works. In the latter capacity it superintends the construction of harbors, bridges, docks and breakwaters, and oversees the work of improving rivers and harbors, making them more suitable for navigation and expending therefor a large sum of money annually. This department has contributed greatly toward the advancement of education and science by conducting all of the exploring expeditions sent out by the government.

Its Bureaus.—The Department of War, like the other executive departments, is divided into bureaus, the heads of which are officers of the United States Army. The most important of these officers are the Adjutant-General, who conducts the correspondence relating to the business of the department, issues orders to the commanders of the various divisions of the army and receives the reports of officers actually engaged in military duty; the Inspector-General, who inspects the condition of the army at all places where any part of it may be located, and examines

the arms and general equipment of the soldiers, as well as the accounts of money spent on the maintenance of the forces; the Quartermaster-General, who has control of the clothing and general army supplies; the Commissary-General, who superintends the purchase and distribution of food supplies for the army; the Surgeon-General, who is the chief medical and surgical officer and superintends the work of the numerous surgeons attached to the different military commands; the Chief of Engineers, under whose direction fortifications are constructed, bridges and docks are built, and harbors improved; the Judge Advocate General, the chief legal officer, who reviews all proceedings by court-martial and acts as the legal adviser of the department; the Chief Signal Officer, whose subordinates do the work of sending messages by means of the heliograph and other systems of signals, as well as constructing telegraph lines when the army is actively operating in the field.

The Army.—At the present time the regular army of the United States consists of one Lieutenant-General, who is the chief officer, six Major-Generals, fifteen Brigadier-Generals, fifteen regiments of cavalry, twelve regiments of artillery, thirty regiments of infantry, engineer, signal and ordnance corps, a corps of chaplains, and the cadets of the military academy at West Point.

The total strength of the army may vary from sixty thousand to one hundred thousand men, according to the discretion of the President.

Navy Department.—The Navy Department was established April 30, 1798. The business of the department is distributed among eight bureaus, the heads of which are officers of the United States Navy. These bureaus are Yards and Docks, Equipment and Recruiting, Navigation, Ordnance, Construction and Repair, Steam Engineering,

Provisions and Clothing, Medicine and Surgery. The general character of the duties performed by these bureaus is sufficiently indicated by their names, therefore no detailed explanation need be given.

This department has charge of the Naval Academy at Annapolis and of the Naval Observatory at Washington. As a part of the work of the Navigation Bureau, it issues nautical charts, maps and books for the use of navigators. It also publishes a nautical almanac for the guidance of sailors.

The Navy of the United States contains several hundred vessels of different types, ranging from the most powerful battleships and armored cruisers to tiny torpedo boats and revenue cutters. The active list of the Navy comprises nearly twenty thousand officers and men, and is constantly increasing as new vessels are put in commission.

The chief officer of the Navy is the Admiral. Other important officers below the rank of Admiral, are Rear-Admirals, Commodores, Captains and Commanders.

The Marine Corps is a body of soldiers trained to do duty on shipboard. It contains about six thousand men and is under the command of a Brigadier-General. Every first-class war vessel carries a guard of several companies of marines.

Interior.—It was not until the year 1849 that the Interior Department was created to assume control of various matters connected with the internal affairs of the country which did not come within the sphere of any of the departments existing at that time. The heads of the bureaus into which this department is divided are called Commissioners, except in two cases, in which they are designated as Superintendents.

General Land Office.—The Commissioner of the General

Land Office has charge of all matters relating to the management and disposal, by sale or otherwise, of the public lands of the United States. The importance of the transactions which have taken place through the medium of this bureau will be apparent when we consider that about two-thirds of the entire area of the country has been public land, the title to which was originally vested in the United States.

In the Revolutionary days there were but six of the original thirteen colonies whose boundaries were established and defined beyond question. These were New Hampshire, Rhode Island, Maryland, Pennsylvania, New Jersey and Delaware, while the others claimed land extending westward to an indefinite limit, even in some cases to the Pacific Ocean. The question of the disposition of these lands was one of the obstacles which delayed the formation of the Union, as those States which had no lands were exceedingly jealous of the claims of the others; but the dispute was finally settled by the agreement that all of these lands should be ceded to the United States Government.

In addition to the vast western territory, the title to which was acquired by cession from the States, the national government obtained enormous tracts by the purchase of Florida from Spain, of Louisiana from France and of Alaska from Russia, and by still other additions as the result of the war with Mexico.

All of this enormous territory has been under the control of the Commissioner of the General Land Office, and nearly all of it has been transferred to private ownership by that officer, acting under the direction of Congress. To accomplish the distribution of this land among individuals, the government has resorted to a variety of expedients. It has donated to each State which has been created in this terri-

tory one section of land in each township for the support of the common schools, and has liberally endowed State universities and agricultural colleges in these States by setting apart large areas of public lands for the support of these institutions.

Bounties of public lands have been given to the soldiers and sailors of the United States for their support when they have been honorably discharged from service, and extensive grants have been made to States to enable them to build roads and canals; still other donations have been made to railroad companies for the purpose of aiding in the construction of railroads necessary for the development of the country.

Many thousands of acres of the public lands of the United States have been sold for cash, and from this source the government has received several hundred millions of dollars. In other cases, lands aggregating thousands of acres have been donated to settlers upon their compliance with certain laws, which require persons receiving such grants to settle upon and improve the land.

Pensions.—The Pension Bureau has charge of the granting and payment of pensions to soldiers and sailors of the United States who have suffered injury or contracted disease while serving in its army or navy. A similar provision is also made for the support of the widows and families of soldiers and sailors. The government expends annually in the payment of pensions more than \$100,000,000 and the work of distributing this vast sum is performed under the direction of the Commissioner of Pensions, at the various pension agencies which have been established in different parts of the country.

Other Offices.—Other heads of bureaus of the Interior Department are the Commissioner of Patents, who super-

intends the granting of patents to inventors; the Commissioner of Indian Affairs, who has control of the support, government and education of the Indians now living within our borders, the Indians being regarded as wards of the government; the Commissioner of Railroads, who looks after the interest which the government has in several of the Pacific railroad companies, the government having aided in the construction of these railroads by grants of land and the loan of credit and money, which must be repaid by the companies; and the Superintendent of the Census, who has charge of taking the census, which the Constitution requires shall be taken every ten years. Two other important bureaus are those of Education and of Geological Survey, the former of which collects and distributes information upon educational matters, and the latter investigates the geological and mineralogical features of the different parts of the country and publishes reports giving the results of its investigations.

The Post Office Department.—Every one is more or less familiar with the workings of this department, for the reason that every citizen avails himself of its benefits in the transaction of his daily business. This department was established in 1789, but the Postmaster-General did not become a member of the Cabinet until President Jackson's administration in 1829.

He has charge and control of the mail service of the government, which provides for the transmission of letters, newspapers, periodicals and small packages to all parts of the world, and has power to award contracts to railroad and steamship lines to do this work. He also establishes postoffices and appoints postmasters in places, where the salary paid does not exceed \$1,000 per year. In other places

the postmasters are appointed by the President and confirmed by the Senate.

Justice.—The Department of Justice has been represented in the federal government ever since the year 1789, when the office of Attorney-General was created, but this officer did not become a member of the Cabinet until the year 1870.

The Attorney-General is the chief legal officer of the government. He advises the President upon all legal matters concerning which his opinion is sought; controls and manages, on behalf of the government, all litigation in which the United States is interested, and directs Marshals, District Attorneys and other law officers of the government in the performance of their duties.

Subordinate to him are several assistant attorneys-general, one of whom is detailed for service in the Interior Department and another for service in the Postoffice Department; also a Solicitor of the Treasury, who attends to some of the legal affairs of that department; a Solicitor of the Internal Revenue, and an Examiner of Claims. The office of Attorney-General is one of the most important in the entire government, and it has been filled by some of the most eminent lawyers and statesmen of our country, among whom may be mentioned Theophilus Parsons, William Pinckney, Roger B. Taney, Caleb Cushing, Edwin M. Stanton and William M. Evarts.

The Solicitor-General is one of the important law officers of the government. He is appointed by the President to assist the Attorney-General in the performance of his duties. In case of a vacancy in the office of Attorney-General or of his absence or disability, the Solicitor-General has power to exercise all the duties of that office.

Agriculture.—The Department of Agriculture is of

comparatively recent creation. It was organized in the year 1862, and in 1889 the Secretary of Agriculture became a member of the Cabinet. The particular duty of this department is to take all necessary steps for promoting the agricultural interests of the country, which constitute the larger portion of the wealth of our people. To this end it maintains numerous bureaus for investigating the habits of insects and birds that injure the crops and determines the best method for the farmer to employ in order to protect himself from these pests.

• It studies the various diseases with which cattle and horses are afflicted, and ascertains the causes and best methods of treating these evils, and protects the public from the sale of diseased meat, sometimes causing whole herds of cattle to be slaughtered in order to prevent the spread of contagious diseases.

The department also conducts numerous agricultural experiments, such as raising silk worms, growing sorghum and beets for the manufacture of sugar, and testing seeds, so that the best varieties may be distributed among the farmers.

Weather Bureau.—The Weather Bureau, since the year 1891, has been a branch of this department. This bureau maintains several hundred stations located in various parts of the country, where meteorological observations are made daily, and upon them are based predictions as to the state of the weather for the ensuing twenty-four hours. The work of this bureau is exceedingly useful to the people, because thereby notice is given of the approach of storms likely to be dangerous to vessels and likely to affect important commercial and agricultural interests.

Labor.—The Department of Labor became a separate department in the year 1888, having been, prior to that

time, a bureau of the Interior Department. The duties of this department are solely to collect facts and statistics upon industrial questions, such as wages, strikes, convict labor and industrial depressions; therefore, it is not necessary to speak in detail of its workings.

Other Executive Officers.—This completes the list of the important branches of the executive department. There are several others, such as the Inter-State Commerce Commission, the Civil Service Commission and the Office of the Librarian of Congress, whose duties have been described elsewhere, and still others, such as the Fish Commission, which makes scientific observations concerning the habits of fishes, their foods and the methods of capturing them, and also propagates and distributes to all parts of the country such fishes as are suitable for food, and the Government Printing Office, which prints the numerous reports of the different branches of the government and publishes the proceedings of Congress. The head of this office is appointed by the President and is called the Government Printer.

After this brief survey of the branches of the executive department and the enormous amount of business transacted through them, the conclusion is readily reached that so far as the masses of the people are concerned, this department, more than any of the others, represents the power of the government and the practical results of its workings. All of these departments are centralized in the President, who is directly responsible to the people for the manner in which he discharges the trusts imposed upon him.

CHAPTER X.

THE FEDERAL JUDICIARY.

The history of our civil institutions has no more interesting and instructive part than that which relates to the origin, growth and development of our judicial system and its influence in shaping the destinies of our country.

These judicial records contain accounts of the action and conduct of men individually and of social and political organizations under varying conditions. Sometimes the controversies arise from avarice and ambitious rivalry, sometimes prompted by the competition of trade, and at other times they emanate from political contentions involving discussions of principles of statecraft and international regulations of universal application.

In ancient and mediæval times, the courts of law were instruments of oppression and injustice quite as frequently as they were a protection to the rights of individuals, but in the judicial system of the United States we find that the framers of the Constitution secured results which had before that time existed only in the theoretical and speculative writings of philosophers.

By the creation of the Supreme Court there was effected a practically complete separation of the legislative, executive and judicial departments of the government, a condition to which we have now become so accustomed, as to

render it difficult for us to realize to what extent the few paragraphs of the Constitution producing this result have excited the admiration of political and philosophical students.*

The Supreme Court.—So much has been written in praise of this institution of our government that it is difficult to find language which will exceed in the extravagance of its terms the utterances of distinguished writers in Europe and America upon this subject. In speaking of the Supreme Court of the United States, it has been said:

"No product of government, either here or elsewhere, has ever approached it in grandeur. Within its appropriate sphere it is absolute in authority. From its mandates there is no appeal. Its decree is law. In dignity and moral influence it outranks all other judicial tribunals of the world. No court of either ancient or modern times was ever invested with such high prerogatives. Its jurisdiction extends over sovereign States, as well as the humblest individual. It is armed with the right, as well as the power, to annul in effect the statutes of a State whenever they are directed against the civil rights, the contracts, the currency or the intercourse of the people.

"Secure in the tenure of its judges from the influence of politics and the violence of prejudice and passion, it presents an example of judicial independence unattainable in any of the States and far beyond that of the highest court in England. Its judges are the sworn ministers of the Constitution and are the High Priests of Justice. Acknowledging no superior, and responsible to their consciences alone, they owe allegiance to the Constitution and to their own exalted sense of duty. No institution of

*See Bryce's *American Commonwealth*, Vol. I, Chap. 23.

purely human contrivance presents so many features calculated to inspire both veneration and awe."*

Notwithstanding what has been said as to the marvellous wisdom displayed by the framers of the Constitution in their creation of this system, it would be a mistake to suppose that they were guided solely by their own original ideas upon the subject. Their wisdom was displayed by the fortunate and harmonious manner in which they took advantage of all that was best in the judicial systems of the colonies and adopted every precaution necessary to protect the dignity and independence of the court.

The Judicial System.—The judicial power is vested in one Supreme Court and in such inferior courts as Congress may, from time to time, establish. Under the power thus given to establish courts, Congress has created the Circuit Court of Appeals, the Circuit Court and the District Court, which, speaking generally, comprise the judicial system of the United States, but in addition to these there are also the Court of Claims, the Supreme Court of the District of Columbia and the Territorial Courts, each of which will be described in its proper place, and the Court of Private Land Claims for the adjudication of claims to land lying within the territory acquired by the United States from the Republic of Mexico.

That judges may be secure in their tenure of office and free from all influences which would tend to hinder them in the impartial discharge of their duties, it is provided that they shall hold their office during good behavior. This means that an appointment to the position of Judge of any of the United States courts is for life, provided the incumbent properly performs the duties of his office. He can be removed from office by impeachment proceedings only.

* Carson's History of the Supreme Court of the United States.

The Constitution also provides that the judges shall receive for their services a compensation which shall not be diminished during their continuance in office. Thus it appears that these two provisions place a judge of a Federal Court in an absolutely independent position, the first giving him practically a life tenure in office, and the second guaranteeing him an income which cannot be diminished.

The Federal Courts deal only with cases coming within the scope of the enumeration contained in the second section of the third article of the Constitution, and these courts must not be confused with the courts which form a part of the government of each of the States, in which the ordinary disputes between citizens are settled.

Jurisdiction.—Briefly stated, the courts of the United States have jurisdiction of the following classes of cases:

1. All cases arising under the Constitution, laws and treaties of the United States.
2. All cases affecting ambassadors, public ministers and consuls.
3. All cases of admiralty and maritime jurisdiction.
4. Controversies to which the United States shall be a party.
5. Controversies between two or more States and between a State and the citizens of another State and between citizens of different States.*
6. Controversies between citizens of the same State claiming lands under grants of different States.
7. Controversies between a State, or the citizens thereof, and foreign states, citizens or subjects.

In all cases affecting ambassadors, other public ministers and consuls and those in which a State shall be a party,

* The judicial power of the United States, although expressly extended to cases between a State and citizens of another State, has been modified by reason of the 11th amendment to the Constitution. See page 105.

the Supreme Court has *original* jurisdiction, by which is meant that such cases may be commenced in the Supreme Court. In all other cases, the action must be commenced in the lower courts, and the decision of the Supreme Court upon the question involved can be obtained only by appealing from the decision of the inferior court; therefore, in these cases, the Supreme Court has *appellate* jurisdiction only.

Criminal Cases.—Another paragraph of the third article of the Constitution provides that the trial of all criminal cases, except in cases of impeachment, shall be by jury, and that such trial shall be held in the State where the crime has been committed. This clause of the Constitution was designed for the protection of citizens in two particulars. It secured for all time the right of trial by jury in all criminal cases, a right which had often been withheld in former years by tyrannical kings of Great Britain and which the people of this country had come to prize most highly. It means simply that no one can be convicted of any crime unless he is found guilty by a jury composed of his fellow-citizens, who are selected in the manner required by law, and all of whom must be absolutely unprejudiced toward the accused before entering upon the trial.

This paragraph of the Constitution also protects the citizen who is accused of committing a crime from the injustice of being sent for trial to a distant place, where he may be unknown and friendless, and therefore deprived of the benefit of his previous good reputation in his own neighborhood, and where he will be involved in additional expense and trouble in making his defense.

Organization of the Supreme Court.—The Supreme Court of the United States was organized pursuant to a law enacted by Congress in the year 1789, known as

the Judiciary Act, and at first was composed of one Chief Justice and five Associate Justices. Since that time changes have been made in the organization of the court as necessity has required, and it is now composed of one Chief Justice and eight Associate Justices. All of these judges are appointed by the President, and, with good behavior, hold their respective offices for life; they can be removed by impeachment proceedings only. The court holds daily sessions, Saturdays and Sundays excepted, in the capitol building at Washington, commencing in October of each year and continuing until the month of May, when it adjourns until the ensuing October.

During the first years of its existence, the Supreme Court had but little work to do, and for many years not more than twenty-five cases were pending before it in each year; but within the last half century the business of the court has increased enormously. At the present time it disposes of several hundred cases annually. The Supreme Court stands at the head of the judicial system, and its decisions are final,

District Courts.—A systematic explanation of the Federal judicial system requires that we next consider the District Courts, which form the lowest grade. To secure the administration of justice, the United States is divided into judicial districts, of which there are seventy-four at the present time, but this number is subject to change as Congress may think proper. In some cases the boundaries of a judicial district are identical with those of a State; in other cases, a State is divided into two or three districts. For example, Illinois is divided into two districts, while Maine constitutes a district by itself. In each of these districts a court is established and a judge appointed to preside over the same.

The jurisdiction of the District Courts includes crimes

committed upon the high seas, all suits brought by officers of the United States, causes of action arising under the postal laws, all civil cases of admiralty and maritime jurisdiction, suits brought by aliens for damages in violation of treaties or international laws, bankruptcy matters and a variety of other cases.

Circuit Courts.—The next step in the formation of the judicial system is the grouping of these districts into nine circuits, the number being identical with the number of Supreme Court Judges. In each circuit a court, called the Circuit Court, is established, and a Circuit Judge is appointed. For the purpose of holding this court, a justice of the Supreme Court is designated for each of these circuits, and he is required by law to visit his circuit at certain intervals. The Circuit Court may be held by the judge of the Circuit Court, by a justice of the Supreme Court, by the judge of any District Court in the circuit, or by any two of them, or by all of them together.

The Circuit Courts have jurisdiction over all cases where the amount in dispute exceeds \$500 and the parties to the controversy are citizens of different States, all suits arising under the patent and copyright laws, certain cases arising under the revenue law, and over many of the subjects which are within the jurisdiction of the District Courts. A complete enumeration of the matters over which Circuit Courts of the United States have jurisdiction would be of little interest or use to beginners in the study of government; therefore, it will not be attempted.

Circuit Court of Appeals.—The Circuit Court of Appeals was created by act of Congress in 1891, for the purpose of relieving the Supreme Court from the work of considering appeals from the District and Circuit Courts in all cases except those in which the jurisdiction of the court

is in issue, final sentences and decrees in prize cases, convictions of capital and otherwise infamous crimes, cases involving constitutional questions and cases in which the construction of a treaty is involved. In all other cases appeals from the District and Circuit Courts must be taken to the Circuit Court of Appeals.

The law creating this court also provides for the appointment of an additional judge in each of the circuits having the same power as Circuit judges of the United States, and receiving the same salary. This additional appointment is necessary in order to enable the Court of Appeals to properly perform its work without taking the time of the Circuit and District judges from the performance of their duties, as already defined by law.

The Circuit Court of Appeals consists of three judges and the justice of the Supreme Court assigned to each circuit. The Circuit judges within the circuit and the several District judges within the circuit are all competent to sit as judges of the Circuit Court of Appeals. A session of this court is held annually in the principal city of each district.

Other Courts.—The government of the District of Columbia is under the control of Congress, and, to administer justice in this District, Congress has created a Supreme Court, which has jurisdiction of all crimes and offenses committed within the District, of all civil cases between parties, both or either of whom shall be a resident or found within the District, of all actions of a civil nature, of all seizures on land or water, and of all penalties or forfeitures made, arising or accruing under the laws of the United States.

Congress has also created Territorial Courts, which exercise a general jurisdiction over civil and criminal matters in the several Territories. The judges of these courts are *appointed by the President*, and, generally speaking, per-

form duties similar to those of the judges of the various state courts.

Besides the courts of justice which have already been described, there is a Court of Claims at Washington, whose duty it is to examine claims against the government for the payment of money in cases where there is a dispute. The creation of this court was a necessity, because no suit can be brought against the United States in any ordinary court. Nevertheless, there are numerous cases continually arising where justice requires that the claims of creditors of the government should be adjudicated and determined according to the rules of law, and to make suitable provision for this class of cases, the Court of Claims has been created.

CHAPTER XI.

AMENDMENTS TO THE CONSTITUTION.

One of the fundamental principles of a democratic form of government, as enunciated by the Declaration of Independence, is the right of the people, who are the source of all power, to alter the governmental requirements whenever it is necessary to do so, in order to accomplish more perfectly the objects for which the government exists. The Declaration of Independence also sets forth the right of the people to abolish a government which fails to protect its subjects in the enjoyment of their rights of life, liberty and the pursuit of happiness. It was because the English government was destructive of these ends, that our forefathers determined to institute a new government, laying its foundations upon principles which tend to protect the rights and ensure the safety and happiness of the people.

How the Constitution May Be Amended.—The right of the people of the United States to alter the form of their government is secured to them by the provisions of the Constitution relating to the amendment of that instrument. Amendments to the Constitution may be proposed by Congress whenever two-thirds of both Houses shall deem it advisable, or by a convention called for the purpose of proposing amendments. It is the duty of Congress to call such convention on the application of the legislatures of two thirds of the several States. Each amendment thus far

made to the Constitution has been proposed by the first method.

After an amendment has been proposed, it must be submitted for approval to the legislatures of the several States, or to conventions to be called in each State, according as one or the other mode of ratification may be proposed by Congress. An amendment must be ratified by three fourths of the States before it can become a part of the Constitution. All amendments to the Constitution have been ratified by the first method, no convention ever having been called, either for proposing or ratifying amendments.

Two restrictions upon the power of amendment were imposed by the Constitution—one, owing to the final settlement of the controversy concerning slavery, is no longer a matter of interest; the other provides that no State without its consent shall be deprived of its equal suffrage in the Senate.*

Fifteen amendments to the Constitution have been made, although a larger number was considered during the period when the adoption of the Constitution was under discussion by the people of the several States.

First Ten Amendments.—The first ten amendments were proposed in Congress during its first session, and went into effect December 15, 1791. These amendments were adopted because the Constitution contained no Bill of Rights, such as is set forth in the constitutions of most of the States.**

A Bill of Rights may be defined as a declaratory statute setting forth certain inalienable rights of the people, in the enjoyment of which they are to be forever protected by the

*See Article V of Constitution.

**Bryce's *American Commonwealth*, Vol. I, page 27. Fiske's *Civil Government*, page 265.

government, and thereby placing well defined restrictions upon the powers of the government and its officers. The term was first applied to the statute enacted by the English Parliament in the year 1689, containing the conditions, under which the crown of England was offered to William and Mary, Prince and Princess of Orange, after the abdication and flight of King James II. These conditions were accepted, and ever since that time the Bill of Rights has formed a part of the constitution of Great Britain. It has exercised a most important influence upon the political institutions of England, because, since its enactment, every sovereign of England has been compelled to base his claim to the throne upon some act of Parliament, thus effectually disposing of claims to rulership by virtue of divine or hereditary rights.*

The first ten amendments correspond in their terms to some of the provisions of the Bill of Rights, just described, but it is generally conceded that the language of the amendments is more forcible and concise than that of the Bill of Rights. These amendments secure to the people the right of freedom of religion, of speech and of the press, the right to assemble and petition the government for a redress of grievances, and the right to keep and bear arms and to be secure in their persons, houses and property, from unreasonable arrests, searches and seizures. The quartering of troops in the houses of citizens in time of peace is forbidden. The right of trial by jury in criminal and civil cases is guaranteed, and in case of capital crimes, no person can be held answerable except on a presentment or indictment of a grand jury. A person cannot be put in jeopardy more than once for the same offense, and cannot be compelled to be a

*Green's History of the English People, Bk. VIII, Chap. III.

witness against himself in any criminal case. The taking of private property for public use without just compensation is prohibited, excessive bail cannot be demanded, and cruel and unusual punishment must not be inflicted.

The theory upon which our government is based is emphasized by the ninth amendment, which declares that still other rights are retained by the people, whether enumerated in the Constitution or not, and further by the tenth amendment, which reserves to the States or to the people all powers not expressly delegated by the Constitution to the general government nor prohibited by it to the States.

Eleventh Amendment.—The eleventh amendment was proposed in Congress in 1794, but was not in force until January 8, 1798. The circumstances which led to the adoption of this amendment are worthy of notice, because its provisions place an important restriction upon the judicial power of the Federal Government* and enable a State to repudiate its debts if so disposed.

In the year 1793, a citizen of North Carolina brought a suit against the State of Georgia, relying upon Section 2 of Article III. of the Constitution, by which a controversy between a State and a citizen of another State is included within the judicial power of the United States. The court decided in favor of the citizen of North Carolina, but the decision caused so much dissatisfaction that the eleventh amendment was enacted so as to prevent a State from being sued against its will.**

Twelfth Amendment.—The twelfth amendment originated with Alexander Hamilton. It was proposed by Congress in 1803 and went into effect in 1804. This amend-

*See Sec. 2, Article III, of Constitution.

**This was the case of *Chisholm v. The State of Georgia*. 2 Dallas Reports, page 419.

ment modified the method of voting by the electors for President and Vice President.*

Originally the ballots of the electors did not designate the name of the person voted for as President and Vice President, respectively, but each elector wrote on his ballot the names of two persons, only one of whom could be a resident of the same State as the elector. The candidate having the largest number of votes, provided it was a majority of the whole number cast, was elected President, and the person having the next largest number was elected Vice President.

No inconvenience occurred in the use of this plan in the first two presidential elections, because Washington was the only candidate for President, and was the unanimous choice of the people for that office, but in 1796 the election was contested. John Adams was the candidate of the Federalists and Thomas Jefferson of the Anti-Federalists or Republicans.**

In those days the electors exercised some individual discretion and independence in voting and were not bound to vote for their party candidates to the same extent as at present. There were dissensions in the Federalist party, which prevented some of the electors chosen by that party from voting for Thomas Pinckney, their candidate for Vice President.*** As a result of these conditions, John Adams was chosen President, while his most bitter political opponent, Thomas Jefferson, was elected Vice President.****

At the next election in 1800 the defects of the system then in use were again apparent. Thomas Jefferson and Aaron

*See Constitution, Article II, Sec. 1, Par. 3.

**The Republican party of Jefferson's time must not be confused with the present party of that name. Jefferson is usually regarded as the founder of the present Democratic party. See Chapter XII.

***Morse's Life of Jefferson, page 173.

****The vote was: Adams, 71; Jefferson, 68; Pinckney, 59; Burr, 30, and the rest scattering.

Burr were the candidates of the Republicans for President and Vice President, and each received an equal number of votes. There being no election by the electors, it devolved upon the House of Representatives to choose a President. So ardently was Jefferson hated by his political opponents that plans were formed by them and intrigues developed to prevent his election to the presidency, which at one time threatened the peace of the country. The controversy was finally settled by the election of Jefferson, but to prevent the recurrence of these dangers the twelfth amendment to the Constitution was adopted.*

Thirteenth Amendment. — For the next sixty years no further amendment of the Constitution was found necessary, but with the close of the Civil War and the abolition of slavery in this country the necessity of embodying the results of that struggle in the supreme law of the land caused the adoption of the thirteenth amendment, whereby neither slavery nor involuntary servitude is permitted to exist in the United States or any place subject to its jurisdiction. This amendment was proposed by Congress in February, 1865, and was promptly ratified by the requisite number of States, so that it went into effect in December of the same year.

Fourteenth Amendment. — The fourteenth amendment was rendered necessary by the conditions which prevailed in the Southern States after the close of the Civil War, during what is known as the Reconstruction Period. During that period, these States enacted laws which almost had the effect of again reducing the negroes to slavery by imposing upon them harsh conditions, with which they must comply in order to live within these States, and inflicting upon them severe penalties for the violation of labor contracts. These

*Morse's Life of Jefferson, Chap. XII.

States also voted pensions to Confederate soldiers and their families, and filled important State offices with former officers of the Confederacy. Such acts as these displayed a temper and disposition toward the Federal Government which required governmental restraint.

Accordingly the fourteenth amendment was proposed by Congress June 16, 1866, and submitted to the States for ratification. The amendment is lengthy and only the substance of it can be stated. It was intended to protect the negroes in their rights of citizenship, and substantially defines what is meant by citizenship in the United States, and prohibits the States from abridging the rights of citizens. If the right to vote is denied to any qualified voter, a corresponding reduction is made in the State's representation in Congress, and certain classes of persons who had been leaders in the Confederacy are made ineligible to hold national or state offices, until their disability has been removed by a vote of two thirds of each House of Congress. This amendment also secured the validity of the public debt of the United States, and forbade the recognition of any debt or liability incurred in aid of the Rebellion.*

Tennessee was the only one of the seceding states which promptly ratified this amendment, and, as a consequence, the Southern States were placed under military rule until such time as they saw fit to comply with certain conditions, among which was the ratification of this amendment. The fourteenth amendment went into effect July 28, 1868, having been ratified by the requisite number of States, including all of the seceding States except Virginia, Mississippi and Texas. These three States were required to ratify the four-

*See Andrews' History of the United States—Vol. IV, pages 190-197—for an account of the causes which led to the adoption of these amendments.

teenth and fifteenth amendments before they could resume their place in the Federal Union.

Fifteenth Amendment. — The fifteenth amendment became operative March 30, 1870. It was designed to still further protect the negroes in exercising the right to vote, and needs no detailed explanation.

CHAPTER XII.

POLITICS IN A DEMOCRACY.

The word politics, in its broadest sense, means the science of government. It deals with the question of statecraft and the regulation of the public affairs of a nation, the preservation of its safety, peace and prosperity, the defense of its rights and territory from foreign control and conquest, and the increase of its own strength and resources. One who is well versed in this science is a politician in the highest sense of the word. The word politician, as just defined, is synonymous with that of statesman.

Both of these words have another and a narrower meaning. In the latter sense, politics means the management of a political party, the conduct of elections, the contests of parties relating to public questions and the selection and advancement of candidates for public office.

Viewing politics in this sense, the word politician means a man who is devoted to the advancement of himself and his associates in public office and who strives for the success of the political party to which he belongs.

Both words have still another signification, which is quite commonly attached to them, especially by persons who do not understand the real meaning of the terms. In a bad sense politics means the artful or dishonest management of public affairs with a view to securing the success of a particular candidate or party, regardless of the welfare of the nation or State. It signifies political trickery. In this case,

a politician means a man who makes it his principal business to be occupied with the management of political parties and who is ready to do anything which he believes to be for his own personal interest.

Citizens living under a popular form of government should be interested in politics and public questions, that an enlightened public opinion may be created and maintained which will correct the faults of government, guide the acts of public officers and counteract the evils which are likely to result from the dishonest or incompetent management of public affairs.

Discussion of political questions generally develops differences of opinion, even upon the simplest governmental propositions. This is followed by a union of those who think substantially alike upon questions at issue so as to secure the ascendancy of their ideas and the election to public office of candidates who will carry out a particular political policy. In this way political parties are created and organized with acknowledged leaders and governed by well-defined rules in every state, city and municipality throughout the country.

Political Parties and Their Origin.—Political parties are organizations of citizens, voluntarily formed in order to secure the success of particular candidates, and the triumph of certain party principles which are embodied in a statement called the *party platform*.

Since the formation of our government, differences of opinion have existed among citizens upon governmental questions. Consequently the formation of political parties commenced with the first session of Congress held after the adoption of the Constitution, and the discussion of questions of taxation developed the issue upon which citizens divided. We have seen that the failure of government under the

Articles of Confederation was due largely to the fact that the general government had no power to raise money by taxation. Accordingly, one of the first problems which presented itself to the new government was to devise a system of taxation which would secure sufficient revenue to meet the expenses of government, and at the same time would not prove too burdensome to an impoverished people.

Hamilton's Measures.—Alexander Hamilton was the first Secretary of the Treasury and upon him developed the duty of solving the problem. The task was a delicate one, owing to the fact that many people had seriously opposed the adoption of the Constitution, because they feared that taxation under the Federal Government would be excessive and ruinous to citizens already overburdened with local taxes.

The methods of taxation introduced by Hamilton were substantially the same as those employed at the present time—namely, duties on imported goods and internal revenue taxes upon a few articles of domestic production, such as whisky and tobacco. The system of indirect taxation, by levying a duty on imported goods, excited no opposition on the part of the people, because it is a tax which is paid in the form of an enhanced price placed upon the imported goods. This method of taxation has been constantly in use as a means of raising a national revenue, solely because the people who pay the taxes do not realize that they are doing so, and consequently make no complaint of the burdens of taxation.

The system of internal revenue taxation devised by Hamilton provoked serious opposition from the outset, which culminated in the Whisky Rebellion in Western Pennsylvania. This insurrection was quelled by the Federal army,

and thereafter the opposition adopted the more reasonable methods of discussion to accomplish its objects.

The measures recommended to Congress by Alexander Hamilton covered a variety of subjects bearing upon the policy to be pursued by the new government, such as the raising and collection of revenue, estimates of the income and expenditures of the government, the regulation of the currency, navigation laws, the Post Office department and the public lands. Dealing more particularly with the financial policy of the government, he devised the system of taxation already mentioned, made an exhaustive report upon the public credit, wherein he prepared a plan for refunding and finally paying the entire indebtedness of the United States, as well as the debts contracted by the different States during the Revolutionary War.

Opposition to Hamilton's Policy.—The reports which Hamilton, in a comparatively short time, presented to Congress generally received the approval of that body, and, embodied in laws, formed a comprehensive system of public policy.* These measures were not adopted without serious discussion, which frequently developed bitter opposition, but this debate did not at first cause the formation of two well-defined and compact political parties, although such was the final result of the controversy.

During Washington's administration the leadership of those opposed to the measures advocated by Hamilton came to be centered in Thomas Jefferson, Secretary of State. It is difficult to say exactly when this took place, but the differences of opinion between these two statesmen began to be generally known in the winter of 1791-92.

Express and Implied Powers.—The opposition to the public policy of Hamilton was based chiefly upon the

*Lodge's *Life of Hamilton*, Chapter V.

argument that Congress did not have power under the Constitution to enact the measures which he recommended. The government of the United States possesses only those specific powers which are enumerated in the Constitution. When it is first proposed that the government shall exercise a particular power, the question is always raised as to whether or not the provisions of the Constitution will permit.

Thus, when Hamilton recommended the establishment of a national bank, his opponents urged that the power of establishing and maintaining such an institution was not granted to the government by the Constitution. The supporters of Hamilton met this argument by asserting that in addition to the powers expressly enumerated in the Constitution, the government has certain implied powers. In support of their contention, they cited the provision of the Constitution, which gives to Congress authority to make all laws necessary and proper for carrying into effect the powers delegated to the general government, which is sometimes called the *Elastic Clause* of the Constitution.

Federalists and Anti-Federalists.—The discussion between Hamilton and his opponents, led by Jefferson and Madison, resulted in the formation of two political parties, representing two theories as to the proper construction of the Constitution. One of these parties, of which Hamilton was the leading representative, favored a "loose" construction of the Constitution, giving to the government extensive implied powers. This was called the Federalist party. The members of the other party contended for a "strict" construction of the Constitution, allowing the general government to exercise only those powers which had been granted to it in specific terms. Jefferson was the acknowledged

leader of this party. At first it was called the Anti-Federalist party, but within a few years it assumed the name Republican.

Successive Party Names.—Since the days of Jefferson and Hamilton the American people have been divided into two great parties along practically the same lines, although the names of the parties have been changed from time to time. The party founded by Hamilton was called Federalist until 1828, when for four years it was designated as the National Republican. In 1832 it became known as the Whig party, a name which endured until 1854, when it began to be called the Republican party, the name which it bears to-day. The party of which Thomas Jefferson was the founder continued to use the name Republican until about 1828, and from that time to the present it has been called the Democratic party.

Each of these parties, when in power, has been more or less inconsistent in applying to actual governmental problems the fundamental principles on which their respective organizations were based, but the history of our country shows that for the most part the differences between them may be traced to the original controversy between Hamilton and Jefferson.

The study of the two great political parties of the present day is divided into two branches—the party organization and the nominating conventions.

Party Organization.—The control of party affairs is vested in different committees, the members of which are chosen by the party through its representatives assembled in convention. The most important committee is the National Committee, which is made up of one representative from each of the States and Territories. This committee represents the party in all national matters, attends to its inter-

ests in presidential and congressional elections and calls together the National Convention, designating the time and place for its meeting.

Each party also has a State Committee, which, in some States, is composed of a representative from each county, and in others of a representative from each congressional district. This committee has general control of the affairs of the party throughout the State and calls together the State Conventions.

In the same way, each party has a County Committee in every county. In every political division of the State, including cities, towns, villages, wards, congressional and legislative districts, there is a committee which looks after the interests of the party which it represents in all political matters within its jurisdiction.

Generally speaking, political committees are charged with the duty of promoting the interests of their respective parties at all elections. They must raise the money with which to pay necessary expenses, see that all voters belonging to the party are registered, so that they can vote on election day, arrange for meetings at which their candidates can address the public, print and distribute such literature as will be beneficial to the party and its candidates, and in every way promote the interests committed to their care.

Nominating Conventions.—All candidates for office are selected by nominating conventions, composed of delegates representing the different sections of the country, State, county, or city, as the case may be. For example, candidates for President and Vice President are nominated by the National Convention of each political party. A National Convention meets every four years. It is composed of delegates from all the States, each State sending twice as many delegates as it has representatives in the national Senate

and House of Representatives. The National Convention frames and adopts a declaration of party principles called the *party platform*, and elects the members of the National Committee for the ensuing four years.

State conventions meet as often as an election for state officers occurs. They are composed of delegates from the different counties of the State, the number of delegates from each county being dependent upon the number of votes cast for the party candidates at the last preceding general election. State conventions nominate candidates for State officers, adopt a party platform and provide for the election of a State Committee.

The same principles are applied in selecting the committees and holding the conventions in each of the political subdivisions into which the State is divided, so that throughout the entire country each party has a series of committees, each of which acts independently within its own territory, but which, taken together, constitute a complete and systematic organization.

Primaries.—Delegates to the National Convention are generally chosen by the State conventions of the respective States, but delegates to all other conventions are selected by the members of the party which they represent, assembled in a mass-meeting called a caucus, or at elections held in the various precincts or election districts. Such an election is called primary and, generally speaking, it is held in the manner and under the conditions imposed by the election laws of the various States.

By this method, every voter can participate in the election of delegates to the various nominating conventions and, through these delegates, has a voice in the election of candidates for every office within the gift of the people.

It is the duty of every good citizen, who is qualified to

vote, to take part in primary elections and thereby help to secure the nomination of worthy candidates.

It is the duty of every political party to make strenuous efforts to educate its members upon political subjects, to the end that they may comprehend the purpose and intent of the national and State Constitutions, as well as the spirit of the laws which give effect to their provisions.

END OF PART ONE.

PART II.

GOVERNMENT OF MICHIGAN.

CHAPTER XIII.

EARLY GOVERNMENT.

In our study of the civil institutions of the United States we have seen that, to know fully the history of their origin and growth, we must commence our investigation in remote periods of the past, long before the discovery of this continent, when men first began to realize that governments were but the creations of the people, and that all should participate in governmental affairs.

We have learned that the principles of representative government were first applied in the small German and Scandinavian communities of Northern Europe, that they were transplanted to England by the Anglo-Saxon invaders, and that after centuries of tyranny and misrule they came into recognition as a result of the struggle between Henry III. and his barons under the leadership of Simon de Montfort, Earl of Leicester.

Several hundred years afterward, similar principles were brought into use in the cabin of the Mayflower, when the Pilgrim Fathers signed their names to the compact which formed the basis for the government of the struggling colony of Plymouth.

In the same manner, to understand the local govern-

ment of the State of Michigan, and to appreciate the theories upon which it is based, we must commence our study at a period long prior to the date of its first settlement, and learn how these institutions came into use in other localities, and, being found suitable for the government of a free and enlightened people, were transplanted from the older communities of New England and the South to the pioneer settlements of our own State.

The results of the centuries of struggle for popular government carried on by our Anglo-Saxon and English forefathers finally became the heritage of the citizens of Michigan as well as those of Massachusetts or Virginia. All that has been said relating to the origin and development of the distinctive features of our government is directly applicable to the civil institutions of Michigan, as they exist to-day. This will become apparent, when we consider, in a subsequent chapter, by whom and under what conditions its local institutions were formed, and the circumstances which shaped their subsequent development.

In addition to these lines of study, the early history of Michigan has distinctive features, not to be found in the records of its sister States, and giving it a special interest to students of historical and political science.

Its territory has been successively under the control of the three great nations of France, England, and the United States, thus subjecting its inhabitants to greater changes in governmental institutions than have been experienced by the people of any other State in the Union. Its history in those early days of French and English rule is replete with romance and adventure, making the narrative one of intense interest to the reader, but the record discloses that the early settlers of the State did not give to it civil institutions of a permanent character. In this respect, the his-

tory of Michigan presents a marked contrast to that of the older States, whose first settlers were men of such character and discernment that they succeeded in laying the foundations of a political system which has endured to the present day.

The era of political progress and material development in Michigan did not commence until immigration from the New England States and from New York became general, and the impress made by the monarchical rule of France and England was effaced.

Until the people became inspired with the love of free institutions and the desire for local self-government, which always characterizes an ambitious and self-respecting citizenship, the progress of the State was slow, and its development was retarded. The story of the civil government of Michigan during the century in which it was under the control of France and of England is briefly told.

Early French Settlements.—The State of Michigan forms a part of the vast and indefinitely bounded territory which was known as New France in the seventeenth and eighteenth centuries. The earliest settlements in the State were made by the French, who explored almost the entire territory between Lake Michigan and Lake Huron. Under the leadership of Champlain, Marquette, Joliet, Cadillac, and others, colonies were founded at Mackinac, Detroit, St. Ignace, St. Joseph, and other places.

In their attempts at colonizing the New World, the French were actuated by two motives. One was the conversion of the natives to Christianity, and the other, the promotion of the fur trade; consequently, the controlling elements in these new settlements were the Jesuit missionaries and the traders.

Neither of these elements contributed to the growth of

the colony, but for different reasons. The missionaries did not care to have the population increased by immigration from Europe, nor did they care to have the customs of civilized life introduced, because they feared that the Indians, when they once came in contact with the vices of civilization, would be less amenable to the precepts of religion. The fur traders did not wish the country to become settled, because with the advent of colonists in large numbers, bent upon tilling the soil and developing the resources of the country, the forests would necessarily disappear, and with their disappearance the business of the fur traders would be gone.

In addition to these conditions which hindered the material development of the territory, the well recognized incapacity of the French government to carry on schemes of colonization with success contributed to the same end. Historians generally agree that the French have not been as successful as the English in the management of colonies, and assign as the reason for their failure, the unwillingness of that nation to permit colonists to share in the administration of public affairs, and the restrictions which it placed upon the civil and religious liberties of the individual.*

The French controlled the country for about ninety years, from the founding of the settlement at the Straits of Mackinac in 1670 until the conquest by the English in 1760, although the territory was not finally ceded to the English until the treaty between England and France, concluded on February 10, 1763. This treaty ended the French and Indian War, and as one of its results, Canada was ceded to Great Britain, thereby ending the rule of France in that part of the continent.

* Cooley's History of Michigan, Chapter I.

During the ninety years of French rule, the government had been arbitrary, the principal officer being a governor-general, appointed by the King of France, who exercised all the functions of government without restraint. During these years no progress had been made in developing the magnificent natural resources of the land, the people had remained in a dependent condition, and, with the exception of the settlement at Detroit, a few missions and trading posts were the only evidences of civilization.

Fifty years later, the arrival of a few settlers, imbued with the principles of the New England Town Meeting, and seeking to establish homes for themselves and their families, contributed more to the political and material development of Michigan in a few years than was accomplished during the entire period of French control.

Under English Rule.—But little need be said concerning the government of Michigan while it was under British control, for while the rule of Great Britain lasted some thirty years, it possessed no features of sufficient merit to be embodied in the permanent government which was afterwards established.

For the first ten years of the English occupation, the government was military in form. The governor-general of Canada was nominally the head of the system, but, owing to the great distance from the seat of government, and the difficulty of communication between the capital and the settlements, the officer in command at Detroit was the real ruler of the territory. Military courts were established, in which all kinds of controversies, both civil and criminal, were settled summarily. Appeals were useless, because if the facts ever reached the responsible head of the government, they received but slight attention from him, as he was busy with matters of more importance to him

than the affairs of a few Frenchmen, half-breeds, and Indians, residing hundreds of miles distant, in an almost inaccessible part of the wilderness.

The military government of the English was distasteful to the French settlers, because it was just as arbitrary, irresponsible, and uncertain as that which had preceded, and in addition, it was the government provided by the conquerors, which is always disliked by the conquered. As a consequence, many of the settlers left the territory, some returning to France, and others emigrating to Louisiana.

It was not the policy of the English to strive to increase the population of the territory and develop its resources, because by so doing the lucrative fur trade would be ruined, and with the development of a prosperous agricultural colony, the citizens would be less dependent upon the mother country. The future of Michigan had been dismal enough under French rule, but the outlook was not brightened by the substitution of English military despotism.

The Quebec Act.—Just before the outbreak of the Revolutionary War, the English government felt the necessity of doing something to conciliate the Canadian settlements, so that the dissatisfaction then existing in the colonies on the Atlantic coast might not be communicated to that province.

Accordingly, the Quebec Act was passed by the English Parliament, but not without serious objections, because it gave to the Canadians religious liberties which the King of England did not dare to grant to his subjects in England and Ireland. By this law, the free exercise of the Catholic religion was allowed, and the clergy were given all the rights and privileges which had formerly been bestowed upon them by the French King. The law also provided a scheme of civil government, with which we are not par-

ticularly concerned, because its provisions, so far as they related to the people of Michigan, were nullified by the Revolutionary War.

The most important feature of it to Americans was the provision by which the boundary of the province was extended as far South as the Ohio River, thus indicating the intention of the British Government to take away territory from the rebellious colonies of Massachusetts, Virginia, New York, and Connecticut, and attach it to the loyal province of Canada. This scheme was frustrated by the efforts of a small band of patriotic and adventurous Virginians.

The Virginia Conquest.—In the year 1778, George Rogers Clark, acting under a commission from Patrick Henry, who was then Governor of Virginia, assembled a small force of less than two hundred men, and undertook the invasion of the territory north of the Ohio River. His efforts were crowned with success. After a difficult march of many hundred miles through an unbroken wilderness, he attacked the garrison at Kaskaskia, and celebrated the 4th of July of that year by capturing the post. The settlements at Cahokia and Vincennes quickly yielded to his vigorous campaign, and he organized the entire territory as a Virginia county.

While Clark and his men did not venture so far north as Detroit, the results of his heroic achievements were felt in that locality, because by his invasion the sovereignty of Great Britain over the territory between the Great Lakes and the Ohio River was destroyed. This enabled the American Commissioners, who negotiated the treaty of peace at the close of the Revolutionary War, to claim successfully that the northern boundary of our country was the chain of the Great Lakes instead of the Ohio River. Therefore, it may be asserted with safety that Michigan,

as well as other States, owe their places in the Union to the bravery and wisdom of George Rogers Clark and his band of gallant Virginians.

Michigan Becomes Part of the United States.—

With the close of the Revolutionary War, Michigan became a part of the United States, but for many years afterward British garrisons remained at Detroit and other points in the Northwest Territory. It had been expected that upon the conclusion of the treaty of peace, possession of these settlements would be yielded to the United States, but the British government was reluctant to withdraw its garrisons from these points, hoping that circumstances might arise which would enable them to assert their sovereignty anew in the territory.

The inefficiency of our general government under the Articles of Confederation gave some encouragement to these hopes, but with the adoption of the Constitution, more vigorous measures were employed, and on July 11, 1796, the flag of Great Britain was lowered at Detroit, and in its place the emblem of the American Republic was unfurled. Michigan then came under the jurisdiction of the United States, and its people received the benefits of the government provided by the Ordinance of 1787. After more than a century of restriction, the inhabitants of Michigan could now look forward to the enjoyment of political freedom and the blessings of liberty.

Before entering upon a consideration of the government of Michigan as a part of the Northwest Territory, and the subsequent development of its local governmental institutions, it is necessary to study the organization of the New England Town, and of the Virginia County, as these two institutions have been largely instrumental in shaping the

civil affairs of Michigan as well as many other States, particularly those relating to local government.

Local government ordinarily means not only the government of the town, village, or city, but includes also county government. The New England Town furnished the model for the government of nearly all municipalities in the early days, while the county system was developed more completely in Virginia. Both of these systems were imported by the early settlers of Michigan and formed the basis of the system adopted for the regulation of local affairs.

CHAPTER XIV.

THE NEW ENGLAND TOWN.

The New England town and its annual meeting deserve a place in our study, because their influence in shaping the local government of Michigan has been potent and beneficial. This institution is, in the opinion of all writers upon the subject of civil government, the most perfect example of a government by the people that can be found in the political history of any nation, and the town meeting, as it existed in the early days and still exists in some New England communities, has been a nursery of patriotism, a school for the education of citizens and a safeguard for the preservation of the liberties of the people.

To understand fully the important part which the New England town has played in the political development of the State of Michigan, and how its essential features have been impressed upon the local government of that State, we must know in detail how it came into existence, for what purposes, and understand its leading characteristics.

Settlement of New England.—We have learned from the study of the history of our country that the early settlers of Massachusetts and the colonies which they formed were, in many respects, different from those of Virginia, Delaware, Georgia and others of the original colonies, to which fact is due, in a measure, the difference in the local institutions which they founded. Hence it becomes important to consider briefly the character and motives of the early settlers

of New England and the conditions under which they lived, because therein will be found the reasons which prompted the construction and promoted the growth of their political system.

The principal reason which impelled the pioneers of Massachusetts to leave their homes in England and seek an abiding place in a wilderness was their desire to pursue without restriction their own ideas as to church government and religious worship. In England they had been under restraint in respect to these matters, and having become dissatisfied with the forms and ceremonies of the English church, and being prevented by the civil officers from carrying out their own ideas in these particulars, they determined to seek a home where they could do as they pleased without fear of molestation from church or king.

Church Government.—They believed that the government of the church should be conducted by the members of the organization, and not in accordance with the dictates of the king or high church officials, and that religious worship should be simple in its forms and devoid of rites and ceremonies. They were students of the Bible and found in its lessons a guide for their daily life in their business and social relations. Their pastor was not only the person who expounded the gospel for their edification on Sunday, but he was also the man to whom the entire community looked for guidance in worldly as well as spiritual things.

Accordingly the immigration to New England was not one of individuals or families, but it was a movement of church congregations led by the pastors. These people settled in communities composed of individuals having the same ideas upon religious subjects and desirous of being under the leadership of the same pastor.

The Township.—The district in which they located was called a township, or town, that being the name to which they had been accustomed in England. The town was irregular in shape, there being no general system of surveys, and its limits were determined by the size of the community and the needs of the inhabitants. It was comparatively small in territory and compact in its settlement.

There were good reasons for all of these peculiarities. The individual holdings of land were small, because the climate and soil were such as to prevent raising those crops which require large areas, like cotton, wheat or rice, and each family needed only a small tract of land as compared with the requirements of a southern planter or a western farmer. Another reason for the compactness of the community was the danger from the attacks of hostile Indians and the necessity of providing for a common defense, and still another, and perhaps to them the most important of all, was the desire to have a common place of worship and to be under the ministrations of the same spiritual leader.

Therefore we find these communities arranged so that the church may be as nearly as possible in the center of the population, and close by it was located the blockhouse or wooden fort in which the people could take refuge in case of an Indian attack. Sometimes the same building was both church and blockhouse, and constituted the defense of the people against both spiritual and physical foes. A little later, we find in a similarly central location another building destined to have a most important influence upon the future of the country—the schoolhouse. The Pilgrim Fathers were strong believers in the necessity of general education, but for reasons which would seem strange if advanced at the present day. The community was essentially *religious*, and the earliest school law enacted in this country

provided for the establishment of a school, so that the rising generation might read and understand the Bible, and so be protected from the machinations of "that old deluder, Satan," whose one chief project was "to keep men from the knowledge of the Scriptures."

It would be interesting and instructive to go further into the details of life in one of the early New England towns, but enough has been said to show the leading characteristics of the community.

The Town Meeting.—The same ideas which controlled in church government were applied to temporal affairs, and therefore the civil government was administered by a meeting of all the male inhabitants of the town over twenty-one years of age. This meeting was regularly held once a year in the early spring time, usually in the month of March, and was called the town meeting. In this meeting every member had an equal voice and was at liberty to make motions and offer resolutions and take part in the discussion of any and all questions under consideration, such as the levying of taxes, the election of officers and the expenditure of public money.

Town Officers.—*Selectmen.*—The principal town officers were the Selectmen, usually three in number, but sometimes five or seven, according to the size of the town. These officers, as their title shows, were men selected at the town meeting to administer the government of the community and to carry out the acts and resolutions of the people as expressed by the proceedings of the town meeting.

As the time for the town meeting approached, the Selectmen issued their warrant, or call, for the meeting, which was posted in the most conspicuous places throughout the town and designated the time and place for holding the meeting. On the appointed day the meeting was called to order.

by the Clerk, who read the warrant issued by the Selectmen. The meeting then proceeded to elect a presiding officer, called the Moderator, and transacted its business in accordance with the usual parliamentary rules which govern public meetings.

At these meetings, officers were elected for the ensuing year, taxes were levied, provision was made for public works, such as the improvement or construction of highways and bridges and the maintenance of schools and almshouses.

The Selectmen were the principal officers elected, and it was their duty to execute the mandates of the town meeting and to enforce the ordinances governing the community. They governed the town during the intervals between the town meetings, and acted as assessors of taxes, overseers of the poor, supervisors of highways and bridges, and in fact constituted the executive branch of the local government.

Clerk.—The Town Clerk was an officer of great importance. It was his duty to keep the records of the town meetings and of the meetings of the Selectmen, as well as a register of births, deaths, marriages and the location of highways, public surveys and other matters which are required to be recorded.

Treasurer.—A Town Treasurer was also elected, who received all money belonging to the town, such as tax collections and license fees, and paid it out as ordered by the Selectmen.

School Committee.—The management of the public school was entrusted to a School Committee consisting usually of three members. This committee determined how much money was needed for the support of the school, decided upon the location and erection of the school building, employed the teachers, prescribed the studies to be pur-

sued, selected the textbooks to be used, made frequent visits to the school and guarded its interests in every way. The people attached great importance to the education of the young, and the persons selected for the administration of so sacred a trust were chosen with a special view to their fitness to perform their duties.

Other Officers.—Other officers selected at the town meeting were Constables, who served writs issued by the courts; Poundkeepers, who had charge of the yards where stray animals were kept; Fence Viewers, whose duty it was to settle disputes as to the location of boundary lines and fences between neighbors; Surveyors of Lumber and Sealers of Weights and Measures, who examined the scales and measures in use in the community, so that none might be defrauded by the use of false weights and incorrect measures.

There were also other officers having special duties to perform, but enough have been enumerated to show that in the days of the town meeting the people in a body elected every officer to whom public duties were entrusted. There were no appointive offices, and the persons chosen for the respective positions were answerable only to the people for the manner in which they performed their duties.

Influence of the Town Meeting.—Such, in brief, was the form of government which originally existed in all the New England communities and still exists unimpaired in many sections which have refused to abandon it for more pretentious governmental methods. In these meetings, all qualified persons took part and attendance was compulsory, failure to attend being punishable by fine. It was a complete exemplification of a government "of the people, for the people, and by the people." Its educational value to the citizens taking part in these deliberations was great, for in these meetings the humblest and poorest citizen had an

equal voice with wealthy and educated men in framing measures of public interest. All were on an equal basis, and the habits thus cultivated of giving personal attention to public affairs, of taking part in debate and giving expression to individual ideas, however crude, were of inestimable value in forming the characters of the citizens.*

The Town of Boston.—Probably the best and most readily accessible example of what may be accomplished in the way of government by town meeting is to be found in the public records of the town of Boston, covering a period of about one hundred and eighty years from the organization of the town to the year 1822. At the last mentioned date, the town had a population of about 40,000 inhabitants, and the town meetings were so large as to be unwieldy and unmanageable. Therefore, the people abandoned this plan of government and obtained from the Massachusetts legislature a city charter, under which its public affairs were no longer managed by the body of the people, but by representatives chosen by them.

For the first one hundred years the record consists of details relating to municipal questions, such as the location of streets, the appropriation of lands for burial purposes, a discussion of educational matters and the levying of taxes; but about the year 1761 a change is to be noted, and from that time the record becomes more and more interesting, being enlivened with numerous addresses to the King and Parliament, and protests against unwarrantable assumptions of power and authority by the royal officers.

In fact, the town meeting of Boston was regarded by English sympathizers as a hotbed of treason to the King and the town of Boston, as a political center, was the par-

*A graphic and interesting account of the proceedings of a New England town meeting is contained in Chapter XXIII of Hosmer's *Life of Samuel Adams, American Statesmen* series.

ticular object of hatred on the part of the royalists, because from these meetings emanated the discussion of those doctrines which afterward, embodied in the Declaration of Independence, resulted in the emancipation of the colonies from the rule of Great Britain.*

The Unit of Representation.—We have thus far considered the town meeting as a means of local government, but it performed another function equally important as a part of the scheme of representative government. The New England town was the unit of representation. When the people came to take part in the wider government, which controlled the affairs of the entire colony and afterward of the State of Massachusetts, they did so through the medium of representatives elected by the citizens of the various towns, who, in the aggregate, formed the General Assembly, or legislative body. It was also the unit for distributing the assessment of taxes—that is to say, having ascertained the amount necessary to be raised by taxation for public purposes, the General Assembly apportioned this amount among the various towns in proportion to their wealth and population.

The system of government by township, the origin of which, in this country, has been briefly described, has been impressed upon the local government of a very large number of States of the Union, whenever emigrants from the New England States have had a hand in framing the political institutions of the newly created State. The principal features of this system are preserved even in communities made up of citizens of foreign birth and extraction, who have readily adopted it as being best fitted for carrying out the principles of a democratic form of government.

*Hosmer's *Life of Samuel Adams*, Chapter I.

CHAPTER XV.

THE OLD VIRGINIA COUNTY.

Another typical institution, which has had great influence in shaping the development of the political institutions of the State of Michigan, was the Virginia county, as it existed in the days prior to the Revolution. All writers are agreed that the various forms of local government prevailing in the United States have been the growth of either the township system, derived from the New England colonies, or the county system, which was first developed in the colony of Virginia.

The Origin of the County.—The study of the county in its origin enables us to distinguish between those institutions which are directly traceable to the township form of government on the one hand and the county system on the other.

The county, like the township, was of English origin, and was, in the first instance, used to designate the portions of England in which the early inhabitants dwelt. This is plainly shown by many of the county names which still exist in England. For example, the County of Essex was originally the home of the East Saxons, and the County of Middlesex was the abode of the middle Saxons.

Those who have read English history will remember that still another German tribe invaded England called the Angles. These people and the Saxons were of similar origin, and the term "Anglo-Saxon" is used to designate the

union of these tribes. From the Angles was derived the name of England, and after their settlement they were divided into two tribes known as "North Folk" and "South Folk," from which originated the two county names of Norfolk and Suffolk. All these county names were imported to this country by the early settlers and one or more of them can be found in use to designate either a county or a city in nearly all of the original thirteen colonies.

We shall not undertake to show how these counties were originally governed in England, as it is sufficient for the purposes of our study to note their English origin, and that the affairs of the English county were entrusted to officers having the same titles and performing the same duties as in our own State. Among these officers were the Sheriff, the Constable, the Justice of the Peace and the Coroner, all of whose functions will be hereafter described.

The English Parish.—In process of time, the counties of England came to be subdivided into parishes for the purpose of local self-government. The parish was a territorial subdivision of the county, and its business was transacted at a meeting held periodically called the vestry meeting. The people taking part in this meeting were called the vestry. We find among the officers of the parish a Clerk, who performed duties for the parish similar to those performed by the Town Clerk for the township; Church Wardens, whose special duties originally were to care for the church property and collect the taxes levied for religious and charitable purposes; and there were many other officers who performed duties similar to those of the officers enumerated heretofore as a part of the system of township government.

Settlement of Virginia.—The conditions under which the colony of Virginia was settled were such as to prompt

the importation of the county and parish system of government rather than the township system, which prevailed in New England. Among these conditions probably the most important was the character of the immigration. We have seen that New England was settled by church congregations who, emigrating together, settled in communities. But in Virginia the land was settled by individuals who received from the King grants of large tracts for the purpose chiefly of raising tobacco. Consequently the settlement of the colony was not in compact communities, but by isolated plantations.

Social Conditions.—The principal industry being the cultivation of tobacco, large areas of land were necessary and cheap labor was required. This led to the importation of slaves and their employment in the tobacco fields, and also to the transportation to the colony of criminals from the large English cities. Both of these elements in the population had a degrading effect upon the community, as neither class was capable, by education or instinct, of taking part in the affairs of the local government. Class distinctions were, therefore, created, and the landowners constituted an aristocracy, holding themselves aloof from their slaves and the lower classes of the white population.

Another peculiarity of the Virginia colony, distinguishing it from those of New England, was the absence of towns, which was due not only to the large plantations already noted, but also to the fact that there were no manufacturing or commercial industries by which towns mainly exist and prosper. The eastern portion of the State contains a large number of navigable rivers which, with their branches, afforded a ready means of communication between all the different parts of the colony, and with the

ocean, consequently the crops were moved directly to vessels which conveyed them to Europe and supplies were received by the colonists in the same manner, thus rendering it unnecessary for the community to rely upon local markets for the purchase of such articles of necessity as they were unable to raise upon their plantations.

The following words of Mr. Thackeray depict in a graphic manner the social conditions which prevailed in colonial Virginia:

"The whole usages of Virginia, indeed, were fondly modeled after the English customs. It was a loyal colony. The Virginians boasted that King Charles II. had been King in Virginia before he had been King in England. English King and English church were alike faithfully honored. They held their heads above the Dutch traders of New York and the money-getting Roundheads of Pennsylvania and New England. Never were people less republican than those of the great province which was soon to be foremost in the memorable revolt against the British crown.

"The gentry of Virginia dwelt on their great lands after a fashion almost patriarchal. For its rough cultivation each estate had a multitude of hands—purchased and assigned servants—who were subject to the command of the master. The land yielded their food, live stock and game. The great rivers swarmed with fish for the taking. From their banks the passage home was clear. Their ships took the tobacco off their private wharves on the banks of the Potomac or the James River and carried it to London or Bristol, bringing back English goods and articles of home manufacture in return for the only produce which the Virginian gentry chose to cultivate. Their hospitality was boundless. No stranger was ever sent away from their

gates. The gentry received one another and traveled to each other's houses in a state almost feudal."^{*}

The Virginia Parish.—For these reasons probably, the parish system of local government was employed and the affairs of the community were governed by a vestry meeting with its church wardens and clerk. The body of the people were called the vestry, and at their annual vestry meeting they elected twelve vestrymen corresponding to the selectmen of the township, whose duty it was to administer the affairs of the parish in the intervals between the vestry meetings. If these vestrymen had continued to be elected by the entire body of the people the system would have been a democratic one, but in process of time the vestrymen themselves assumed the right to fill vacancies in their body, thereby perpetuating themselves in power and constituting in effect an oligarchy, or ruling class, which has always been damaging to the existence of republican institutions.

That it was not subversive of these institutions in Virginia and other southern colonies, was due to the fact that the vestrymen were men actuated by the highest motives, having the public welfare at heart. Thomas Jefferson, who was a profound student of local government, said: "The vestrymen are usually the most discreet farmers, so distributed through the parish that every part of it may be under the immediate eyes of some one of them. They are well acquainted with the details and economies of private life, and they find sufficient inducement to execute their charge well in their philanthropy, in the approbation of their neighbors and the distinction which that gives them."

The Unit of Representation.—From what has been said, it might be assumed that the difference between the

^{*}*The Virginians, Chapter III.*

Massachusetts and the Virginia colonies was not so great after all, and that it was a difference in name more than anything else. This would doubtless be true to a certain extent so far as the government of the parish on the one hand and the township on the other is directly concerned, but the difference appears more marked when we learn that in Virginia the parish was not the political unit. It was not the agency used to elect the representatives of the people in the wider government of the entire colony. In Virginia the county was the unit of representation and the legislature was composed of representatives of the respective counties and not of representatives of the parishes.

County Court.—The principal agency in administering the government of the Virginia county was the County Court, which was composed of eight justices of the peace and which met monthly in some central locality. The members of the court were appointed by the governor, but, as a matter of fact, after the court was first constituted it was practically a self-perpetuating body, because it was customary for the court itself to nominate to the governor suitable candidates for the filling of all vacancies, and its recommendations were generally followed.

The county court had a limited jurisdiction in civil and criminal actions, and had charge of the probate of wills and the administration of estates. In addition to its judicial functions, it also superintended the construction of bridges and highways and appointed most of the county officers, such as surveyors, constables and coroners, and levied the taxes for the entire county to be expended for such public purposes as payment of salaries, construction of roads and public buildings.

Taxes.—As the population of Virginia was scattered *and there were no towns in the early days*, many of the ob-

jects for which taxes are levied in municipalities did not exist in the colony. The local taxes were levied by the vestrymen and were applied principally for ecclesiastical purposes and the support of the poor, and the general taxes, for the purposes which have already been mentioned, were levied by the county court.

Sheriff. — Under the county system, which prevailed in Virginia, the Sheriff was an officer having a multitude of duties. He not only acted as the executive officer of the court, and in that capacity served writs, took care of the courthouse and jail and enforced the decrees and orders of the court; but he also in many cases acted as the collector of taxes, and as the treasurer, who held the proceeds of the taxes when collected, and in addition to these duties he presided over the election of the representatives to the legislature. The Sheriff was appointed by the governor upon the recommendation of the county court.

Town and County Systems Contrasted. — From this outline of the local governmental arrangements in Virginia we find that the governing power was not vested in the people, but was in the hands of a comparatively limited number of the citizens. As indicated by the words of Jefferson, already quoted, such a government will, no doubt, be beneficial, economical and efficient, as long as the persons in control are actuated by proper motives and in the discharge of their duties consider the welfare of the community, and not their own private and personal ends.

In contrasting the two systems of local government prevailing in New England and in Virginia, two points of difference may be noticed. In New England, under the township system we find that practically every public officer having any governmental duties to perform was chosen *directly by the people*, and that in Virginia the most import-

ant of these officers were nominally appointed by the Governor, but in reality were appointed by their associates in office, thus creating a governing aristocracy, which is repugnant to a democracy. We also notice that in New England the entire management of local affairs was in the hands of the inhabitants of the respective communities, while in Virginia the only local affairs which were even theoretically under the control of the people were those pertaining to the parish, which concerned solely the support of the church and the maintenance of the almshouses, all other local affairs being controlled by the county officers.

It has been said that the New England system is the one most likely to cultivate in the minds of the people a thorough knowledge of the duties of citizenship and to develop in them a sense of individual responsibility for the proper management of public affairs, while the Virginia system, tending, as it does, to divide the population into classes and to restrict the management of governmental affairs to a few, was more likely to develop qualities of leadership in members of the governing class.*

* Fiske's Civil Government, page 66.

CHAPTER XVI.

TERRITORIAL GOVERNMENT OF MICHIGAN.

One of the chief obstacles to the formation of a permanent union of the thirteen colonies was the controversy as to the disposition to be made of the vast and partially unexplored territory lying north of the Ohio River, and between the western boundaries of the original States and the Mississippi River. This region was claimed wholly or in part by the States of New York, Virginia, Massachusetts, and Connecticut, but under different pretexts. The claim of New York was based upon its jurisdiction over the Six Nations, who had partially conquered several of the Indian tribes inhabiting the territory. The other three States contended that the whole or a part of the region was included in their original charters, and in addition, Virginia asserted a title acquired by the conquest under Clark and his comrades, which has been narrated in a preceding chapter.

These conflicting claims were a fruitful source of discord in the discussions which preceded the adoption of the Articles of Confederation. The States which had no claims upon these lands were jealous of the others, and refused to come into the confederacy unless arrangements were made for the division of this domain. The State of Delaware, in 1779, voiced the common sentiment by declaring that the State considered itself "justly entitled to a right in common with the members of the Union to that extensive tract of territory which lies to the westward of the frontiers of the United States, the property of which was

not vested in or granted to individuals at the commencement of the present war."

The controversy was finally settled by the cession of all of these lands to the general government. New York took the lead in this movement in 1781, and was followed by Virginia, Massachusetts, and Connecticut, the last cession being that of Connecticut in 1786. In this way, the general government acquired its title to the territory in dispute.

Jefferson's Plan of Government.—From the close of the Revolutionary War until the year 1787, the government of this territory was neglected by Congress. Such local governmental agencies as were in existence ceased to perform their functions, public officers did not discharge their duties, and in many instances lawless individuals plundered the people at will. In Michigan, as we have seen, the military rule of the English continued to even a later date.

Thus the urgent necessity of providing some form of government for the inhabitants of this territory became apparent, and Congress was occupied with this problem from March 1, 1784, when a committee, of which Thomas Jefferson was chairman, was appointed to prepare a plan for the temporary government of the Northwest Territory, until July 13, 1787, when the famous Ordinance of 1787 was enacted by Congress.

The plan proposed by Mr. Jefferson was not adopted, although it was comprehensive in its scope, and provided for the temporary government of the territory in all its details. By this plan, the territory was to be divided into seventeen parts, with the expectation that they would eventually be admitted as States. The most noteworthy feature of the scheme was the provision absolutely forbidding slavery after the year 1800 in the territory, or the States

to be formed from it. This provision, which was afterwards substantially incorporated in the Ordinance of 1787, constituted in later years an effectual check to the advance of slavery and its accompanying evils, and made the Ohio River the northern boundary of the slave-holding territory.

The Ordinance of 1787.—This celebrated law, the object of which was to provide a government for the territory north of the Ohio River, called the Northwest Territory, has been the subject of so many encomiums that it deserves more than a passing mention in this connection. In speaking of it Daniel Webster said: "I doubt whether one single law, ancient or modern, has produced effects of more distinct, marked and lasting character than the Ordinance of 1787." Equally significant are the words of Chief Justice Chase of the United States Supreme Court, who said: "Never, probably, in the history of the world did a measure of legislation so accurately fulfill and yet so mightily exceed the anticipations of the legislators."

This law provided a temporary form of government for an extensive territory, sparsely inhabited by Indians, half-breeds, Frenchmen, pioneers, and adventurers from the Eastern States and from other parts of the world. Owing to its great length and the number of its provisions, a detailed statement of its contents will not be attempted.

The chief merit of the enactment was due to the fact that it embodied in the fundamental law of this territory many of the principles which had been announced in the Declaration of Independence, and thus secured to the inhabitants and their posterity all the benefits, both social and political, which had been derived from the enlightened theories of the signers of the Declaration.

Among these benefits may be mentioned, the right to

freedom of opinion and worship, trial by jury, the writ of habeas corpus and proportionate representation. In addition to these, the provision forbidding slavery in the territory and the law of inheritance by which the property of an intestate descended equally to his children were important, because they prevented the formation of a landed aristocracy and secured a body of citizens upon a reasonable basis of equality in the ownership of land.

Government under the Ordinance of 1787.—The form of government provided by this ordinance was not particularly liberal in the matter of allowing the people to exercise the right of local self-government. The governor was appointed by Congress and vested with authority to fill all of the minor offices. Three judges were also appointed, who, with the governor, were given the power of prescribing the laws until such time as the territory had a population of 5,000 inhabitants. This population having been attained, the territory was authorized to elect a general assembly, but the elective franchise could be exercised only by citizens who owned at least fifty acres of land, and a representative was required to be a citizen of the United States, a resident of the district from which he was elected and the owner of at least two hundred acres of land.

The ordinance also provided that not less than three nor more than five States should be formed from the territory, and in a general way fixed the boundaries of these prospective States, the intention being that whenever any one of these States attained a population of sixty thousand inhabitants, it should be admitted to the Union on an equal basis with the original thirteen States.

Thus it will be seen that under the Ordinance of 1787 it was expected that the States to be formed from the *North-west Territory* should pass through three stages in respect

to their government. In the first stage, the inhabitants were given only very limited political rights. The only laws then in force were such enactments selected from the statutes of the original States, both civil and criminal, as the governor and the three judges saw fit to publish and declare, they having the right to select such portions of these laws as they thought best suited to the needs of the territory.

In the second stage, the people were given the right to elect a legislative assembly, but the right of suffrage was restricted to those citizens having the necessary property qualifications. The third stage contemplated that the inhabitants of the territory should enjoy all the rights of American citizens.

A Part of Indiana.—The first permanent division of the Northwest Territory took place in the year 1802, when Ohio was admitted to the Union. The remainder of the territory was given the name of Indiana, and continued to be governed under the Ordinance of 1787 as a part of Indiana Territory. This arrangement was of brief duration, and requires only passing mention, as no change was effected so far as the government of the territory was concerned. In 1805, Congress enacted a law, creating the Territory of Michigan. The new territory, as defined by the Act of Congress, included "all that part of Indiana which lies north of a line drawn east from the southerly bend or extreme of Lake Michigan until it shall intersect Lake Erie, and east of a line drawn from said southerly bend through the middle of said Lake to its northerly extremity, and thence due north to the northern boundary of the United States." This law went into effect on June 30, 1806, and with that date the history of Michigan, as a distinct and separate part of the United States, commenced.

The Territory of Michigan.—The history of the first ten years of Michigan Territory was not prosperous or fortunate. Detroit was the seat of government, and there were but few white settlements in the Territory. The form of government was that of the first stage prescribed by the Ordinance of 1787, that is to say, the legislative, judicial, and executive functions were exercised by the governor, secretary, and three judges, all of whom were appointed by the President. No political progress was made during this period, and the development of the Territory was still further retarded by the misfortunes attendant upon the War of 1812, prominent among which was the temporary occupation by the British military forces.

With the expulsion of the British, Michigan again commenced its history as a part of the American Union, under the governorship of Lewis Cass, a man of great ability and political foresight.

Beginnings of Local Government.—Prior to the administration of Governor Cass, the history of Michigan, both from a material and political standpoint, shows only a succession of misfortunes, but a new order of things soon became apparent. The governor was a man of strong convictions, thoroughly imbued with the theories of local government which prevailed in New England, where he was born and spent his early years. Settlers were encouraged to come to the Territory, and the cultivated land gradually encroached upon the wilderness. The county system was introduced for judicial purposes, as in Virginia, but the New England Town Meeting was adopted as the agency for governing the different communities.

The genesis, growth, and development of a Michigan town has been aptly described by a learned writer, who says: "First comes the settler, who, axe in hand, clears the

ground for his humble dwelling and plants whatever seed he has brought with him. Then comes another settler and another, until perhaps a dozen families are established near. Two wants are now felt: Roads or at least paths from house to house, from hamlet to market town, and a school-house for the multiplying children. There is no central authority to provide these things, but the settlers meet and voluntarily vote to tax themselves. The services of a supervisor, collector, clerk, constable, and justice of the peace are required.”*

In this way local government commenced in Michigan. The immigration to the territory was largely from New England and New York, and consequently the institutions of those places were transplanted to the new Territory, with such changes and modifications as the circumstances and conditions of the pioneer settlements seemed to require. Michigan took the lead among the Western States in the adoption of the town-meeting as an agency for local government. In the neighboring States of Ohio, Indiana and Illinois, the Virginia County System was the basis for regulating local affairs in early days, but as the years have passed it has largely been supplanted by institutions originating in the New England Town Meeting. In Michigan, while it remained under territorial government, the county system was used principally for judicial purposes, as already stated. In subsequent chapters, both of these civil institutions as they exist in the State of Michigan at the present time will be fully described.

Michigan Becomes a State.—In the year 1832, the population of Michigan had increased so enormously that the people began to consider and discuss the advisability of

**Local Government in Michigan and the Northwest*, Edward W. Bemis, Johns Hopkins University Studies in Historical and Political Science, Vol. 1.

applying for admission to the Union as a State, and an election was held in that year to ascertain the opinion of the people on the question. A large majority of the votes were in favor of statehood, but further action on the subject was delayed by the outbreak of Black Hawk's War and by an epidemic of cholera which ravaged the Territory for two years.*

A census was taken in the year 1834, and it was found that there were 87,273 free inhabitants in the original Territory, and that Michigan had added to its population more than 60,000 persons during the preceding four years.** The Ordinance of 1787 provided that whenever there were more than 60,000 inhabitants within that portion of the Northwest Territory which was to form one of the five States to be created from it, a state government should be established. This provision was held to be a compact between the general government and the people of the Territory, and as Michigan now had more than the requisite population, the desire for statehood became universal throughout the Territory.

A convention, composed of delegates elected by the people, assembled at Detroit in May, 1835, and adopted a State constitution, which received the approval of the people at an election held in October of that year. But the admission of Michigan to the Union was delayed still further by a dispute which arose as to the boundary between that State and Ohio.*** It was finally proposed by Congress to settle the controversy by yielding to Ohio the land in dispute, and to compensate Michigan by the cession to it of an extensive tract, which is now known as the Upper Peninsula.

* Cooley's History of Michigan, page 212.

** Campbell's Political History of Michigan, page 442.

*** A complete and interesting account of this controversy is contained in Chapter XI of Cooley's History of Michigan.

This compromise was rejected by a convention called to consider the proposition at Ann Arbor on September 4, 1836, and no settlement of the dispute seemed at hand.

The political status of Michigan at this time was unusual. A state government had been formed and officers elected, all of whom were performing their duties, yet the State, while within the jurisdiction of the Federal Government, was still not a member of the Union. This condition of things could not continue long, and another convention was assembled at Ann Arbor on December 6, 1836, which ratified the proposition for the settlement of the boundary trouble, and on January 26, 1837, Congress declared that Michigan had become a member of the Federal Union.

The constitution which had been adopted by the people of the Territory became the fundamental law of the new State, and remained in force until the year 1850, when the present State constitution went into effect.

CHAPTER XVII.

STATE GOVERNMENT OF MICHIGAN.

We come now to study the government of the State of Michigan as it exists to-day under the Constitution of 1850. This Constitution was adopted on August 15, 1850, by a convention composed of delegates chosen by the people, which met at the capitol in Lansing. It was subsequently ratified by a vote of the people, and went into effect on January 1, 1851.

The States are forbidden by the constitution of the United States to exercise any of the powers which have been given exclusively to the Federal Government, as those powers are such as affect all of the States, and therefore could not be exercised by the States separately with any degree of uniformity or harmony. It would cause a vast amount of confusion and trouble if each of the forty-five States of the Union had the right to exercise such national prerogatives as coining money, imposing customs duties, regulating patents and copyrights, making treaties with foreign nations or maintaining a military and naval establishment.

For this reason the Constitution has prohibited the States from exercising any of the powers of the national government, and in furtherance of the same purpose has expressly and specifically provided that no State shall attempt to do any of these things. With these restrictions

the State government of Michigan can do almost anything that its own constitution and the acts of its own legislature permit.

Scope of State Government.—To show the vast range of subjects which are under the control of the State government, the following words of a learned writer upon the subject are quoted in full:

"All the civil and religious rights of our citizens depend upon State legislation; the education of the people is in the care of the States; with them rests the regulation of the suffrage; they prescribe the rules of marriage, the legal relations of husband and wife, of parent and child; they determine the powers of masters over servants and the whole law of principal and agent, which is so vital a matter in all business transactions; they regulate partnership, debt, credit and insurance; they constitute all corporations, both private and municipal, except such as specially fulfill the financial or other specific functions of the Federal Government; they control possession, distribution and use of property, the exercise of all trades and all contract relations; and they formulate and administer all criminal law, except only that which concerns crimes committed against the United States, on the high seas or against the law of nations. Space would fail in which to enumerate the particulars of this vast range of power; to detail its parts would be to catalogue all social and business relationships, to examine all the foundations of law and order."*

We shall now present an outline of the general structure of the State government of Michigan, and show how its legislative, executive and judicial departments are constituted, and the powers of each, but some of the provisions of the constitution, such as those relating to revenue, edu-

* Woodrow Wilson, *The State*.

cation, suffrage and other matters, will be considered in subsequent chapters.

THE LEGISLATIVE DEPARTMENT.

The legislative power of the State is vested in a senate and house of representatives, the members of both of which are elected by the people. A candidate for either of these positions must be a citizen of the United States, and a qualified elector of the county and district which he represents. No person holding any lucrative office under the United States or this State can be either senator or representative. No person who has failed to account for public money entrusted to his care can fill these positions, or any other office in this State. Members of the general assembly, before entering upon their official duties, are required to take a solemn oath of office, and any member who violates this oath must forfeit his office and be thereafter disqualified from holding any office of trust or profit in this State.

The Senate.—The Constitution provides that the State shall be divided into thirty-two senate districts, each of which shall elect one senator, whose term of office shall be two years. No county can be divided in the formation of senate districts, unless it is equitably entitled to two or more senators. The only counties affected by this provision are Wayne and Kent, there being at the present time four senators from Wayne County and two from Kent County.

House of Representatives.—The house of representatives consists of one hundred members, who are elected for a term of two years. The Constitution directs that the State shall be divided into representative districts, composed of contiguous territory, and containing as nearly as possible an equal number of inhabitants. No township or city can

be divided in the formation of a representative district, and when such township or city, by reason of its population, becomes entitled to more than one representative, they must be elected on a general ticket.

Each county having a population equal to a moiety of the ratio of representation is entitled to one representative and many of the counties have two or more representatives. For example, the present ratio of representation is 20,938 persons, and each county having a moiety of this number elects one representative, while Wayne County is entitled to twelve representatives, Kent County to five, Saginaw to four, and so on. The less populous counties are grouped in representative districts, each district containing two or more counties.

Legislative Sessions.—The regular sessions of the legislature must commence on the first Wednesday in January, in every second year, commencing with the year 1861, and must be held at the seat of government. The Constitution forbids the holding of sessions of the general assembly at any other time or place, except in cases where a special session is convened by the governor, who has the right to exercise that power on extraordinary occasions.

The presiding officer of the house of representatives, called the speaker, is elected by the members of the house, but the lieutenant-governor, who is elected by the people, presides over the sessions of the senate.

Forbidden Legislation.—The Constitution imposes some restrictions upon the power of the legislature to enact laws, without which there would be no limit to the scope or variety of legislation. It is unlawful for the legislature to authorize by special law the sale of real estate belonging to an individual, or to vacate or alter any road or street laid

out by the proper local authorities, or permit the sale of lottery tickets. It can pass no law interfering in any way with the religious liberty of citizens, and no money can be appropriated from the treasury for the benefit of any religious sect. The freedom of speech and of the press cannot be restrained or abridged, and no law can be passed which impairs the obligation of contracts.

Impeachment.—The provisions of the Constitution of Michigan upon the subject of impeachment are similar to those of the Federal Constitution. The house of representatives has the sole power of impeachment, and all impeachments must be tried by the senate, which acts in a judicial capacity in such cases. When the governor or lieutenant-governor of the State is tried, the chief justice of the supreme court presides, and two thirds of the senators must concur in order to secure a conviction. In case of conviction, the punishment is removal from office, but the person convicted remains liable to punishment according to law.

THE EXECUTIVE DEPARTMENT.

In comparing the provisions of the Constitution of Michigan, relating to the executive department, with those of the Federal Constitution, an important difference should be noted. Under the Constitution of the United States, the executive power is vested in the President alone, and all other officers having executive duties to perform hold their respective positions by appointment. The Constitution of Michigan provides that the executive power shall be vested in the governor, but it also directs the election of certain other officers, viz; Lieutenant-Governor, Secretary of State, Superintendent of Public Instruction, Treasurer, Commissioner of the Land Office, Auditor General, and Attorney

General. All these are executive officers, and all are elected by the people for a term of two years. In case the vote for governor or lieutenant-governor is a tie, then the legislature elects.

It is, therefore, apparent that the governor is only a part of the executive department, and that there are other executive officers deriving their powers from the same source as the governor—that is, from the constitution. “Indeed, it may be doubted whether the governor and other principal officers of a state government can, even when taken together, be correctly described as ‘the executive,’ since the actual execution of the laws does not rest with them, but with the local officers chosen by the towns and counties, and bound to the central authorities of the State by no real bonds of responsibility whatever.”*

Governor.—A person to be eligible for the office of governor or lieutenant-governor must be at least thirty years of age and must have been for five years a citizen of the United States, and a resident of the State of Michigan for two years next preceding his election.

The powers and duties of the governor, as established by the Constitution of Michigan, may be generalized under the following heads:

1. *Certain Duties and Powers with Reference to the Legislature.*—It is his duty, at each session and at the close of his term of office, to give to the legislature, by message, information of the condition of the State, and to recommend such measures as he deems expedient. He has the power of convening the general assembly in special sessions upon extraordinary occasions.

2. *Pardoning Power.*—He has the power of granting

* Woodrow Wilson, *The State*.

reprieves, commutations and pardons after conviction, for all offenses except treason and cases of impeachment, subject to such regulations as may be provided by law.

3. *As Commander-in-Chief.*—He is commander-in-chief of the military and naval forces of the State, except when they shall be called into the service of the United States, and may call out these forces to aid in executing the laws, suppressing insurrection and repelling invasion. The militia of the State is composed of all able-bodied male citizens between the ages of 18 and 45, except those who are exempted by law.

4. *The Power of Veto.*—Every bill passed by the legislature must be submitted to the governor before it becomes a law. If he approves the enactment, he signs it, and thereupon it becomes a law; if he does not approve, he returns the bill to the house from which it originated, together with his objections. This act of the governor is termed *vetoing the bill*. If the bill again passes both houses of the legislature by a two thirds vote in each house, it becomes a law, notwithstanding the governor's veto. Any bill not returned by the governor within ten days, Sundays excepted, after it has been submitted to him, becomes a law in like manner as if he had signed it. In case he is prevented from returning the bill by the adjournment of the legislature, within ten days after the bill has been presented to him, it does not become a law. Any bill passed by the legislature during the last five days of the session may be approved by the governor within five days after the adjournment of the legislature, and the same shall then become a law.

In case of death, impeachment, failure to qualify, resignation, absence from the State, or other disability of the governor, the powers, duties and emoluments of the office for

the residue of the term, or until the disability is removed, devolve upon the lieutenant-governor.

Other State Officers.—*Lieutenant - Governor.* — The lieutenant-governor is president of the senate, but he has the right to vote only when the senate is equally divided upon a question. The senate chooses a president *pro tempore* to preside in case of the absence or impeachment of the lieutenant-governor, or when he holds the office of governor.

If there be no lieutenant-governor, or if the lieutenant-governor becomes incapable of performing the duties of the office, the president of the senate acts as governor until the vacancy is filled or the disability removed.

Secretary of State.—The secretary of state is the official custodian of the books, papers, records and great seal of the State of Michigan. The title of his office more accurately describes his duties than is the case with the Secretary of State of the United States, who is a minister of foreign affairs. The secretary of state of the State of Michigan performs the duties which are usually imposed upon the secretary of any great establishment, and acts in the same capacity for the sovereign State of Michigan as he would if secretary of a large private corporation.

All public acts, laws and resolutions passed by the general assembly must be deposited in his office, and he is charged with the safekeeping of all documents deposited with him. It is his duty to keep a record of the official acts of the governor; to countersign and to affix the seal of the State to all commissions issued by the governor; to furnish, upon request and payment of the lawful fees therefor, a copy of any of the records in his office; to take charge of the printing of public records; and to supervise the *distribution of the laws and journals of the legislature.*

Treasurer.—The treasurer, as is indicated by the title of his office, must receive and keep all moneys belonging to the State of Michigan. This is an office of great pecuniary responsibility, and, therefore, to secure the faithful discharge of his duties, the treasurer is obliged to give a bond to the people of the State, and is also required to furnish additional bonds whenever the auditor-general shall deem it necessary.

The treasurer must receive all public moneys of the State and safely keep the same. He can pay money out of the treasury only upon the warrant of the auditor-general, and he is required to keep accurate accounts of all moneys received and paid out by him, and to report the same each month to the auditor-general.

Commissioner of the Land Office.—This officer has the general supervision of lands belonging to the State, and has power to lease or sell the same in the manner provided by law. He has numerous duties to perform in connection with the real property owned by the State, or in which it has an interest, such as conducting and keeping a proper record of all sales of public lands, and making return of the proceeds of such sales to the treasurer of the county in which the land is located, attending to the surveying of lands, and establishing proper boundaries for both public and private lands, causing maps of village lots to be recorded.

Auditor General.—The auditor-general is the official accountant of the State of Michigan. It is his duty to keep the accounts of the State with any other State or Territory and with the United States, with all public officers, corporations, and individuals having dealings with the State, and to audit all accounts of public officers who are paid out of the State treasury, of the members of the legislature, and

all persons authorized to receive moneys from the State treasury. He also has many other duties to perform under various statutes, relating to the financial affairs of the State, its revenue and the management of the funds of its charitable institutions, some of which will be mentioned in subsequent chapters.

Attorney General.—He is the chief legal officer of the State government. It is his duty, as prosecuting officer, to represent the people of the State in all cases in which they are interested, and also to protect State officers in suits brought against them in their official capacity. He is the legal adviser of the governor and other State officers, and is required, when requested by them, to give written opinions upon all legal and constitutional questions relating to their duties, and to prepare all legal documents incidental to the business of the State. He is the legal adviser of both branches of the legislature, and it is his duty to enforce the proper application of the funds appropriated for the support of the public institutions, such as schools and asylums, and to prosecute all persons who may be guilty of any breach of trust in the management of such funds.

He also has important duties to perform with reference to certain corporations, such as insurance companies, building and loan associations, savings associations, and railroad companies, and must see that these institutions comply with the laws of the State in the management of their business.

State Boards.—Many of the administrative duties of the government are entrusted to various Boards, created by the laws of Michigan, and as these Boards properly belong to the executive department, the more important of them will be described briefly.

Board of State Auditors.—This Board is created by the Constitution of the State, and is composed of the secre-

tary of state, state treasurer, and commissioner of the state land office. It is one of the most important of the State Boards, and has numerous duties to perform, only a few of which can be enumerated.

Under the Constitution, it is required to examine and adjust all claims against the State, not otherwise provided for by law. In this capacity, it acts as a court of claims, the necessity for which has been mentioned in a former chapter.*

No suit can be brought against the State of Michigan, but as the business of the state government is of vast proportions, it follows that many persons are entitled to receive money from the state treasury, either for services rendered or material furnished to the State. All these claims are audited, examined and adjusted by the Board of State Auditors, and when allowed, are paid by the state treasurer. They also have power to institute measures for the collection of claims due to the State.

The Constitution also requires the officers composing this Board to act as a Board of State Canvassers, to determine the result of elections for state officers. Their duties in this capacity will be described hereafter in the chapter on the election laws of the State.**

Many other duties are imposed upon this Board by the laws of the State, among which may be mentioned the care of the furniture in the halls and committee rooms of the senate and house of representatives, the supervision of the drawing and accounting for money used for postage in the different departments of the state government, the supervision of the expenses and accounts of various state institutions, and the examination of the affairs of banks and trust companies, so as to protect persons doing business

* See page 101. ** See Chapter XXI.

with these institutions from the results of dishonest or incompetent management.

State Board of Agriculture.—This Board owes its existence to an act of the legislature. It is composed of eight members, six of whom are appointed by the governor, by and with the consent of the senate, two being appointed at each biennial session of the legislature. The governor and the president of the State Agricultural College are members of this Board by virtue of their respective offices.

The members of this Board have charge of all funds set apart for the support of the State Agricultural College, and of the College* itself, including the selection of the instructors and the regulation of the course of study.

The Board also has other duties of great importance to the agricultural interests of the State, such as directing the analysis of commercial fertilizers, and supervising the inspection of orchards and nurseries.

State Board of Health.—Speaking briefly, the purpose for which this Board exists is the protection and preservation of the life and health of the citizens of the State. To this end, the Board is required to study the vital statistics of the State, make investigations as to the causes of sickness and death, advise State officers and boards as to the sanitary arrangements of public buildings and state institutions, and to prevent the introduction and spread of contagious diseases. They have the supervision of local boards of health, all of which are required to report periodically to the State Board.

The Board is composed of seven members, six of whom are appointed by the governor, with the consent of the senate. The Board so appointed elects a secretary, who then becomes a member of the Board. Regular quarterly meet-

* For description of this institution see Chapter XXII.

ings are held at the capital, but the Board may meet at such other times and places as necessity may require.

Board of Fish Commissioners.—It is the duty of this Board to establish and maintain fish-breeding establishments for the propagation and cultivation of white fish and other varieties of fish which are suitable for food, and to stock the waters of the State with such fish. The Board employs a competent superintendent of fisheries, who devotes his entire time to the hatching and distribution of fish among the streams and lakes of the State. The Board is also charged with the duty of enforcing the numerous regulations of the State for the preservation of the supply of fish and to prevent the catching of them in an unlawful manner.

The Board is composed of three members, all of whom are appointed by the governor, and hold office for six years.

Board of Pardons.—This Board is composed of four members, appointed by the governor, two being appointed at each session of the legislature. One member must be an attorney-at-law, and one must be a physician.

The Board holds its sessions at such times and places as circumstances may require, and must fully and carefully investigate every application for pardon or commutation of sentence on behalf of persons convicted of offenses against the laws of the State. It recommends to the governor the advisability of granting or rejecting such applications, and with its recommendations transmits to the governor a concise statement of the facts in each case. It is, therefore, purely an advisory body.

Other Boards.—There are several other State Boards, which, while constituting branches of the executive department, can be studied more profitably in connection with other topics, as, for example, the State Board of Equaliza-

tion, whose duties will be considered in the chapter relating to the revenue laws, the Board of Regents and the State Board of Education, whose functions will be treated in a subsequent chapter, devoted entirely to educational matters.

In addition to those, there are separate and distinct Boards having charge of the public educational and charitable institutions of the State, such as the Board of Corrections and Charities, and still other Boards having duties to perform in overseeing the operations of railroads and other public corporations, none of which need be considered in elementary study.

Appointive Officers.—There are numerous other officers in the State of Michigan, who discharge important executive functions. These are appointed by the governor, and hold their respective offices for a term of two years. Among the more important of these are the following.

Adjutant General.—He is one of the important military officers of the State, and through him the commander-in-chief issues all orders to the militia.

He makes an annual report to the governor, concerning the military forces of the State, showing their numerical strength and the details of their equipment. He has other duties imposed upon him by the laws of the State, as receiving applications for the formation of military companies, approving requisitions for uniforms, keeping a record of the naval militia, and receiving the various reports of company, regimental, brigade and division commanders.

Quartermaster General.—He has charge of all the magazines, storehouses, arsenals, munitions of war, and military property of the State, and is required to keep the same safely and deliver it to his successor in office. On behalf of the State, he furnishes to all military organizations the necessary tents, fixtures, arms and equipments, camp equip-

age, and such other articles as may be necessary. These different kinds of military property belong to the State, and are loaned by it to the commanders of the different companies, regiments and brigades of the state militia, and the officers to whom the articles are delivered are required to receipt for the same and be responsible for their safe-keeping.

Inspector General.—The principal duty of this officer is to have charge and supervision of the instruction of the state troops. He has charge of the organization of military companies, and, when required by the governor, inspects the armories and military property of the State, and sees that the same are being kept in proper and safe condition.*

Commissioner of Railroads.—As indicated by his title this officer is concerned with the affairs of the different railroad companies doing business in the State, and sees that all these companies comply with the laws of the State in the management of their affairs. In order that he may be fully informed as to the details of the business of these companies, each of them is required to furnish to the Commissioner a yearly report, showing its financial condition, the value of the different kinds of property owned by it, such as rolling stock, tracks and buildings, the extent of its passenger and freight business, and the prices charged by it for the transportation of passengers and freight.

If the Commissioner desires further information as to the management of such corporations, beyond what is contained in these yearly reports, he has the right to propound such questions to the managers as he may deem necessary.

It is necessary that this officer be vested with extensive powers, so that he may protect the interests of the public

* The Adjutant General, Inspector General and Quartermaster General constitute the State Military Board, which is an advisory body to the Governor concerning all the military interests of the State, and prescribes all rules and regulations for the government of the State troops.

and see that proper and safe accommodations are provided for passengers and other persons doing business with railroads. Accordingly, he is given the right at any time in his discretion to inspect the books, papers and records of any railroad company doing business in the State and to examine under oath the directors, officers and agents of any such corporation, concerning any matter connected with its business.

The laws of Michigan, relating to the management of railroads within its borders, are very complete, and, speaking generally, it is the Commissioner's duty to see that these laws are observed. His powers and duties, therefore, are numerous, among which are the inspection of tracks, bridges, and cars, the making of regulations for the public safety at crossings, such as the employment of flagmen, and the erection of gates and bridges, and compelling railroad companies to furnish suitable accommodations for the public in respect to cars, depots, sidings and switch tracks.

Commissioner of Insurance.—The business done by fire, marine and life insurance companies in the State of Michigan is enormous, and as the nature and details of the business are not understood by the majority of people, it is proper that the State should exercise a control over these companies, so that the people may be protected from dishonest or incompetent management.

He is the chief officer of the Bureau of Insurance, which is a branch of the state department, created especially to attend to the execution of the insurance laws. The details of the insurance business are so numerous that it is impossible, in an elementary work, to explain them, and, therefore, the duties of the Bureau and Commissioner of Insurance, can be described in only the most general way.

He has charge of the licensing of all insurance companies

wishing to do business in the State. All such companies are required to report to him, giving full particulars as to the nature and extent of their business, and the methods employed in its transaction. He has power to examine their books and records, and in case violations of the law are discovered, he reports them to the Attorney-General, in order that proper legal action may be taken in such cases.

Commissioner of Labor.—This officer, with his deputy, and the Secretary of State, constitute a Bureau of Statistics of Labor. The functions of this Bureau are to collect and print labor and industrial statistics, and to present the same in annual reports to the governor.

These reports include statistical details relating to all departments of labor in the State. Some of the topics covered are hours of labor, the number and nativity of laborers, their mental and moral culture, their age and sex, the influence of the different kinds of labor, the use of intoxicating liquors and the social and domestic relations of the laboring classes.

Other Commissioners.—There are several other branches of industry which are subjected to inspection and control by the State government. The officers charged with the performance of these duties are called Commissioners in each case. Among them many be mentioned the Dairy and Food Commissioner and Commissioner of the Banking Department, whose duties are to compel the enforcement of the laws of the State with reference to the subject matter of their respective departments.

The State Librarian is appointed by the governor and holds office for a term of four years. He has the care and custody of the State Library, and makes a report to the legislature at each session, showing the condition and contents of the library. He has charge of the sale of the re-

ports of the Supreme Court and the exchange of copies of the public documents of the State for similar publications of other states.

THE JUDICIAL DEPARTMENT.

This is the branch of the government which applies the laws of the State to particular cases, through the medium of courts of justice, in which controversies between individuals are heard and decided, and offenders against the laws of the State are tried. Cases of the first kind, relating solely to the property rights of citizens and corporations, are called *civil* cases, while those in which offenses against the law are involved are called *criminal* cases.

Courts are instituted in order that citizens may be protected in the enjoyment of their rights of life, liberty and property. A court must have at least two officers, namely, a judge and a clerk. The judge decides the matters which are in dispute, and makes the necessary orders, which are binding upon the parties to the controversy, and the clerk keeps a record of all the proceedings in the case and the orders which are made by the judge.

The Constitution vests the judicial power of the State in one supreme court, circuit courts, probate courts and justices of the peace. These courts will be described separately and the powers and jurisdiction* of each will be shown.

Supreme Court.—This is the highest court in the State in point of dignity and importance. It has five judges, one of whom is called the chief justice, and the remaining four are called associate justices. The term of office of these

*The term *jurisdiction*, as applied to a particular court, means its power to hear and determine cases, the sphere of its authority. The jurisdiction of a court may be limited to a certain territory, district or county, and it may be limited to certain classes of cases. The jurisdiction of the Supreme Court extends to all parts of the State, while the jurisdiction of the Circuit Court of any county is limited by the territorial boundaries of that county.

Original jurisdiction means the power to pass upon cases in the first instance, while appellate jurisdiction means the right to review cases which have been passed upon by lower courts.

judges is ten years, and one of them is elected by the people every second year. Each of the judges acts as chief justice during the last two years of his term.

The judges of the Supreme Court are required to reside at Lansing during their respective terms of office, and all sessions of the court must be held in that city. Four terms of the court are held each year, commencing respectively in the months of January, April, June and October.

The Supreme Court has a general control over all other courts of the State, and has the power to issue writs of error,* habeas corpus,** mandamus,*** quo warranto,**** and procedendo.***** In these cases it has *original* jurisdiction. In all other cases it has appellate jurisdiction only.

Circuit Courts.—Circuit Courts have original jurisdiction in all civil and criminal matters, except those minor cases hereafter mentioned, which are determined by justices of the peace, and also have appellate jurisdiction in cases arising before justices of the peace and before the probate court.

The State is divided into thirty-five judicial circuits. In some cases, a single county constitutes a circuit, and in other cases, two or more counties are combined in one circuit. For example, each of the counties of Wayne, Jackson, Saginaw, Macomb, Kent and Bay, being the most populous counties of the State, form a judicial circuit, while the coun-

* This writ is issued for the purpose of bringing before the Supreme Court for review the record of the proceedings in the inferior court in cases in which it is alleged that errors have been committed.

** For an explanation of the origin and meaning of this term, see Chapter XXIV.

*** The word *mandamus* was originally a Latin verb, meaning "we command." In law it is used to designate a writ or order issued by a superior court, directing an inferior court or a public officer to perform some specific duty.

**** This is a proceeding in the name of the people of the State to inquire into cases of unlawful usurpations of office or the unlawful exercise of franchises.

***** This is a writ by which a case is sent from a higher to a lower court, with directions to the lower court to proceed to the final hearing and determination of the case. It is issued by the Supreme Court when a case has been improperly brought before it, which should be heard in a lower court.

ties of Antrim, Charlevoix, Grand Traverse and Leelanau combined constitute the thirteenth judicial circuit.

One judge is elected by the people in each of these circuits, and he is required to hold court at least twice each year in every county in his circuit. In counties containing ten thousand inhabitants, a circuit court must be held four times each year. The Constitution authorizes the legislature to provide for the election of additional circuit judges in the counties of Wayne, Saginaw and Kent. The county clerk of each county is also the clerk of the circuit court of that county.

Circuit Court in Certain Counties.—In Wayne County there are five circuit judges, all of whom have equal powers and duties; one of these is the presiding judge, and when sitting together the concurrence of three is sufficient to decide any matter. The presiding judge assigns and apportions the business of the court among the five judges, and they hold court separately, each disposing of the business assigned to him.

In each of the counties of Saginaw and Kent, there are two circuit judges, having equal powers and duties. The business of the court is divided between them, and each judge holds a separate court for the transaction of his share of the business.

Superior Court of Grand Rapids.—This court was organized to relieve the Circuit Court of Kent County from litigation arising between residents of Grand Rapids, and it has no jurisdiction over persons other than those residing in that city.

It has the same jurisdiction in civil cases as the Circuit Court of Kent County, and in addition, has *exclusive* jurisdiction over cases in which the city or its officers are parties. It also has exclusive jurisdiction in all criminal cases

based upon offenses committed in that city. Appeals from the decisions of this court are taken to the Supreme Court.*

Recorder's Court of Detroit.—This court has two judges, one of whom is called the Recorder. They have equal powers, and the business of the court is divided between them, so that each may have an equal share, as nearly as possible.

The court has original and exclusive jurisdiction over all criminal cases arising in the City of Detroit, except those minor cases which are cognizable by the police court or by justices of the peace. It also takes cognizance of offenses against the ordinances of the City of Detroit, and of violations of the election laws of the State. Proceedings to take private property for the benefit of the public may be taken in this court.**

Probate Courts.—In each county of the State there is a Probate Court having one judge only, whose term of office is four years. The court is always open for the transaction of business. It has the power to take the probate of wills, to settle the estates of deceased persons, and to appoint guardians for minors and take charge of the estates of minors.

The business of this court is of the greatest importance to every community, because sooner or later, all the property in every county must pass through the hands of the court and be administered under its direction. It is, therefore, necessary that its affairs should be managed in an honest and competent manner, as it deals with the property of widows and orphans.

* The City of Detroit formerly had a Superior Court, having the same jurisdiction as the Circuit Court, except that it was limited to persons living in that city. This court was abolished some years ago.

** Proceedings of this kind constitute an exercise of the right of eminent domain. For an explanation of this right, see Chapter XXIII.

Court of Mediation and Arbitration.—Owing to the growing frequency of disputes between employers and employes, this court has been created to bring about the amicable adjustment of all such matters. The court is composed of three members, appointed by the governor for a term of three years.

Whenever any grievance or dispute of any kind arises between any employer and his employes, the parties to the controversy may submit the same to this court for investigation and determination. The court also has power to investigate strikes and lock-outs, and it is its duty to try to effect by mediation an amicable settlement of such troubles.

Justices of the Peace.—These magistrates are elected at the annual town meeting in each town, and constitute a part of the judicial system of the State. No more than four of them can be elected in each township. They have a limited civil and criminal jurisdiction, throughout the county, and are authorized by law to administer oaths, take acknowledgments of deeds and other conveyances, and to perform the marriage ceremony.

Generally speaking, justices of the peace have jurisdiction in civil cases where no more than three hundred dollars is involved, except in cases affecting the title to real estate or in suits against the legal representatives of deceased persons.

They have jurisdiction over quite a large number of criminal cases of a minor character, and of all offenses punishable by a fine of not more than one hundred dollars or by imprisonment for not more than three months, or both. In criminal cases of greater importance, they sit as examining magistrates, and bind over the accused to await the action of a court of higher jurisdiction.

Circuit Court Commissioners.—These are judicial

officers elected by the people every two years. Each county elects one of these commissioners, and in counties having more than twenty thousand inhabitants, two are elected.

The Commissioner is an assistant to the Circuit Court, and has the right to exercise some of the powers of a judge. Among his duties, are the taking of testimony in chancery proceedings, and computing the amounts due on mortgages, stating accounts between litigants, and conducting judicial sales.

Clerks of Courts.—These officers, although not performing judicial duties, may be described properly in connection with that branch of the government, because the clerk is an indispensable officer of the court. Without a clerk, a court cannot do business any more than it can act without a judge. In this connection, we shall speak of the clerks of all the courts, and give a general statement of the character of their duties, which are similar in all cases.

It is the duty of the clerk of a court to have an office in a fixed place in the courthouse, and to keep regular office hours. He is the keeper of the seal of the court, and is required to attend court in person when it is practicable to do so, but, when necessary, may appoint deputies, for whose conduct and acts he is responsible. The clerk is required to preserve all the files and papers relating to the various cases and other business before the court, and to keep a complete record of all of the proceedings, including the judgments, decrees and orders, of the court with which he is connected. For this purpose he must keep a general docket, in which all suits are entered, and proper indices to all of the books of record, so that there may be a ready and easy reference to them when desired.

This brief general statement does not convey an adequate idea of the numerous important functions which are per-

formed by the clerks of the courts, or of the vast volume of business which passes through their offices, but as a familiarity with all of these details is not needed by any except members of the legal profession and others having business with the courts, no further statement will be given concerning them.

CHAPTER XVIII.

COUNTY GOVERNMENT IN MICHIGAN.

County Government in General.—We have learned something of the county system of government as it was introduced in the colony of Virginia, and afterwards brought into the Northwest Territory by settlers from Virginia, and have seen that, like most of our political institutions, it is of English origin. Each State of the Union except Louisiana* is divided into counties, varying in size and population; therefore county government is general throughout the United States.

The county is a subdivision and agency of the State, created for convenience in administering the affairs of the State government. It is an institution of ancient origin, having a history full of interest to students of civil affairs. The county in England is older than the kingdom itself. It originated with the union of two or more clans into a tribe and their settlement in a fixed dwelling place, after which, in a comparatively short time, they assumed the form of a monarchy and the chief became known as a king.

When the Anglo-Saxon tribes invaded England and settled in different parts of the island, they created a number of small kingdoms, independent of each other. Afterward, when the government became centralized and subject to one responsible head, these individual kingdoms continued

* Louisiana is divided into parishes for purposes of local government.

their existence, and were known as counties. Thus the growth of the county in England has been essentially different from its development in the United States. In England the kingdom was created by a union of the counties, but in the United States the counties have been formed by a subdivision of the State.

The legislature of each State controls the division of the State into counties, all of which are created solely by legislative act. A county is endowed with certain functions, giving it the character of a corporation. It can sue in the courts and be sued; it can act only through its duly qualified officers; it can purchase such real estate as is needed for the uses of the county; it can sell or lease the same when no longer needed, and it can make all contracts necessary for the proper transaction of the county business.

The government of the county is, to some extent, divided into legislative, executive and judicial branches, although the greater portion of the powers exercised by its officers come within the executive and judicial branches.

There are eighty-three counties in Michigan, all of which are organized. An organized county is one having the necessary officers and political institutions for carrying out the purposes for which counties exist.

Constitutional Provisions.—For purposes of local government, Michigan was divided into counties before it became a State, and the county system of government was continued under the Constitutions of 1837 and 1850. The Constitution of 1850 recognized these subdivisions of the State as they existed at the time of its adoption.

The latter instrument made no change in the number or boundaries of the counties, but restricted the power of the legislature in respect thereto, by providing that no county shall ever be reduced by the organization of new counties to

less than sixteen townships, unless a majority of the electors residing in each county to be affected by the proposed change shall decide in favor of it.

The Constitution provides for the general government of counties by committing the management of their affairs to a Board of Supervisors, consisting of one member from each township, and such number of representatives from the various cities as the legislature may determine.

It also requires the election every two years of the following officers, viz: Sheriff, County Clerk, County Treasurer, Register of Deeds and Prosecuting Attorney. The Board of Supervisors in any county is given power to unite the offices of County Clerk and Register of Deeds, or to disconnect the same.

County Seat.—In each county there is one place designated as the county seat, at which the public offices and court house of the county are located. The Constitution forbids the removal of any county seat which has been once established, until the place to which it is proposed to be removed shall be designated by two-thirds of the Board of Supervisors, and a majority of the electors voting thereon shall have voted in favor of the proposed location.

Board of Supervisors.—This is the legislative body of the county. It is composed of the supervisors of the several townships and cities of the county, there being one supervisor elected in each township and one in each ward of the cities in the county. The Board of Supervisors is required to meet annually at the court house of the county, and they may also hold special meetings at such times and places as necessity may require. The presiding officer, called the chairman, is elected each year, and the county clerk is the clerk of the board.

They have certain important powers and duties, relating to the maintenance of county buildings, such as public offices, almshouses, jails, court houses, and the construction and management of roads and bridges throughout the county. In making rules and regulations for the proper administration of county affairs, the Supervisors exercise a certain legislative power, subject, however, to the limitation that all rules and ordinances enacted by them must conform to the laws of the State.

Speaking generally, the Board of Supervisors represents the people of the county in the transaction of all county business and in the care and management of county property. It fixes the amount of compensation to be paid for services rendered the county, audits and adjusts all claims against the county, raises money by taxation for paying the expenses of the county government, exercises a general supervision over the officers of the county, authorizes townships to raise money by taxation or borrowing for the purpose of building roads or bridges, controls the division of the county into townships and representative districts, and permits or prohibits the construction of dams and bridges upon navigable streams. The duties of this Board are so numerous that space will not permit a more detailed statement concerning them, especially as certain of them, arising under the revenue, school and election laws, will be mentioned in subsequent chapters.

Board of Auditors of Wayne County.—By the creation of this Board, the legislature has made special provision for the affairs of Wayne County, and has withdrawn from the Board of Supervisors of that county many of the powers exercised by such boards in other counties.

The Board of Auditors for Wayne County is composed of three persons, one of whom is elected each year. Two

of these auditors must be residents of Detroit. The member whose term of office will expire soonest is chairman of the Board, and a clerk is appointed by vote of the Board. Regular sessions of the Board are held at least twice in each week, and meetings may be held at such other times as the Board shall deem necessary.

The auditors have power to examine the books and vouchers of county officers, to determine and report to the supervisors the amount of money required to be raised by taxation, to appoint the subordinate officers necessary for the proper administration of county affairs, to fix the compensation of such officers, to audit and adjust claims against the county, and in general, to exercise all of the powers of a Board of Supervisors, except those relating to the assessment and collection of taxes.*

Other County Officers.—*The Clerk.*—This officer is required to maintain an office at the seat of justice in the county, and is the keeper of the seal of the county, which must be used by him in numerous cases where he is required by law to authenticate his acts by the use of an official seal. He has the custody of all the records, books and papers of the county. He acts as the clerk of the Board of Supervisors, keeps an accurate record of its proceedings, as well as of all official accounts filed in his office, and all details relating to the same. He is required to give to all persons demanding the same, and paying the lawful fee therefor, a copy of any record of the proceedings of said Board. He must also perform such other duties as may be required of him by the Board. Under this sweeping provision, he has numerous duties under different statutes of the State.

* The duties of Boards of Supervisors with reference to the assessment and collection of taxes are described in Chapter XXIII

He is also the clerk of the circuit court of the county, and in that capacity has the care and custody of the seal and of all files and records of the court, and is present at all its sessions, either in person or by deputy.*

The County Clerk is elected by a vote of the people, and holds his office for a term of two years.

The Sheriff.—The Sheriff is one of the most important executive officers of the county. He is elected by the people for a term of two years, and cannot hold the office for more than four years in any period of six years. The office of sheriff originated in England, and is of great antiquity.**

It is the duty of the sheriff to execute the orders of the various courts of the county. If the courts have decided that one citizen is entitled to recover from another the amount of a debt owing him, and the debtor is unable to pay his creditor the amount due in cash, it becomes the duty of the sheriff, acting under the orders of the court which has heard and determined the matter, to levy upon and sell the property of the debtor in order to realize the amount of the debt.

If the court has decided that a person guilty of an attempt to rob the house of a citizen, or commit other criminal offense, it is the duty of the sheriff to take possession of the person who is convicted upon such a charge, and confine him in the county jail, or to convey him to the State prison.

The sheriff is also the custodian of the jail and courthouse, and sometimes of other public buildings. He serves all writs issued by the courts and provides food for the prisoners in the county jail.

* See page 175 for a description of his duties in this capacity.

** "By some authorities the office of Sheriff is said to have been created by King Alfred, but others are of the opinion that the office is of still greater antiquity, and that it existed in the time of the Romans." *Bouvier's Law Dictionary*.

In case of a riot or other unlawful assemblage of persons within the county, it is the duty of the sheriff to enforce and maintain the law, and to this end he has the right to call upon any and all able-bodied citizens in the county to assist him. This force when called into action by the sheriff is termed the *posse comitatus*, that is, the power of the county. Thus he and his deputies perform the duties in the county which are delegated to police officers in the city.

Treasurer.—The County Treasurer must receive and hold, subject to the order of the proper county officers, all the funds belonging to the county. The county funds are derived from taxation, from fees paid by litigants in the courts of the county, and from fines imposed upon persons who have violated the laws.

He is required to keep accurate accounts, showing all moneys, revenues and funds received by him, and must report to the Board of Supervisors, from time to time, the condition of the funds of the county.

He is elected by vote of the people, and, like the sheriff, cannot hold the office for more than four years in any period of six years.

The Register of Deeds.—This is an officer of great importance, as will appear when his duties are explained. He is elected by the people at the general election of county officers, and holds office for a term of two years. It is the duty of the register of deeds to receive and record, in properly bound books provided especially for that purpose by the Board of Supervisors, all instruments in writing which are filed in his office.

These instruments are those which relate to the transfer of real estate and personal property, either by act of the parties, as when a deed or mortgage is executed, or by operation of law, as when a decree of court has been entered

affecting the title to real estate. The register of deeds is required, immediately on receipt of any instrument to be recorded, to enter in the order of its reception the names of the parties to the instrument, its date, the day of the month, hour and year of filing the same, and a brief description of the property specified in the instrument. All these instruments are required to be copied at length into proper books of record and suitable indices to be made and kept, so that a ready reference can be had at any time to the records.

Among the different kinds of instruments which are filed in the office of the register of deeds the most important are deeds, mortgages, trust deeds, maps and plats and certified copies of judicial proceedings. The greatest accuracy is required in keeping the records in this office, because upon the sufficiency and correctness of the record depends, in many cases, the validity of the title of owners of real estate to their property.

Prosecuting Attorney.—The Prosecuting Attorney is the principal law officer of the county. He is elected by the people, and holds office for the term of two years. It is his duty to prosecute all actions, both civil and criminal, in which the people of the county are concerned, and to give legal advice in all cases in which the State or his county may be interested, when such advice is required by any civil officers in the discharge of their respective official duties.

He is principally concerned with the prosecution of criminal offenders against the law, but he also performs many other duties imposed upon him by the various statutes of the State, such as prosecuting public officers for neglect of duty, and public corporations which fail to comply with the laws of the State.

The office is one of great importance, and the incumbent should be possessed of ability and energy, in order to meet the demands of his official position.

Coroners.—Two of these officers are elected in each county at the general election held every two years.

In some cases, the coroner performs the duties of the sheriff in executing the processes of courts of law. In case a suit is brought against the sheriff, it is the duty of the coroner to serve the summons notifying the sheriff to appear in court and answer the charges against him, because it would be manifestly absurd to require the sheriff to summon himself. When there is no sheriff in the county, the circuit or the county judge designates one of the coroners to act in that capacity until the vacancy is filled, and if the sheriff for any cause is committed to the county jail, the coroner residing nearest the jail becomes the keeper while the sheriff is a prisoner.

Another important duty imposed upon coroners is to investigate and report upon all cases of death from unexplained causes, where there is reason to believe that a crime has been committed or a serious accident has occurred. For example, if a dead body is found by the side of a county highway, possession of the corpse is given to the coroner, who summons a jury to ascertain, if possible, what caused the death of the person, and whether it was due to accident or to the commission of a crime. The investigation of a case of this kind is called an *inquest*. In rural sections of the State, inquests are also held by justices of the peace.

County Surveyor.—This officer is elected by the people every two years. It is his duty to make such surveys within his county as may be directed by any court or requested by any person. He must keep a record of all sur-

veys made by him, and his certificate of any survey is accepted as a true statement as to all the facts contained in it.

Drain Commissioner.—The Board of Supervisors of each county, at its annual meeting held in the odd numbered years, is required to appoint one county drain commissioner. This officer has jurisdiction over all drains in the county, and supervises the location and construction of this class of public improvements. The laws of the State, relating to the construction of drains and drainage ditches, are very voluminous, and it is sufficient to say that in all proceedings under them, the drain commissioner is the executive officer of the county.

County Agent.—This is an officer appointed by the governor who acts as an agent of the State Board of Corrections and Charities in the care of juvenile offenders and dependent children. He has power to investigate individual cases and see that the welfare of unfortunate children is protected.

Notaries Public.—These officers deserve mention in our study, because nearly every one has occasion at some time to call upon one of them to act in his official capacity.

They are appointed by the governor, with the consent of the senate, and they have power to administer oaths and certify to the proper execution and acknowledgement of legal documents.

Conclusion.—Remembering what has been said in a former chapter, concerning the Virginia County, it is well to note the differences between county government in Michigan and under the Virginia system. Counties were established in Michigan by Governor Hull for judicial purposes, one of the objects for which they existed in old Virginia,

and at that time fully one fourth of the laws of Michigan were taken from the statutes of Virginia.

Notwithstanding this influence, the county government has never been the means by which the people of Michigan regulated their local affairs, as was the case in Virginia, but, as stated at the beginning of the chapter, the Michigan county has always been the agency created by the State for the purpose of performing some of the functions of government, principal among which is the administration of justice between citizens.

CHAPTER XIX.

TOWNSHIP AND VILLAGE GOVERNMENT.

After what has been stated in former chapters concerning the origin of township government in this country, and the reasons which caused it to become one of the established institutions of the State of Michigan, we are now prepared to enter directly upon the consideration of the principal features of this kind of local government as it exists in our State.

This form of government in the State of Michigan is used in rural communities, where the population is scattered. It is the agency by which the people in these communities exercise their rights of local self-government, and, therefore, deserves an important place in our study. In this State there are no populous places governed entirely by the township system, such as is the case in the New England States and was the case in the Town of Boston before it adopted a city charter. In the State of Michigan, as soon as any considerable number of people inhabit a small and compact territory, it follows almost invariably that a village or city organization is adopted, and that the township government ceases to be the agency for regulating the local affairs.

Organization of Towns.—As explained in a former chapter, the development of the township system in Michi-

gan began with the influx of settlers from the Eastern, and particularly from the New England, States. These people had been accustomed to that system of local government in the homes which they had left, and it was natural that they should wish to establish the institution in the frontier settlements of their adopted State.

When the Constitution of 1850 was adopted, townships had been organized in all settled portions of the State, and the Constitution recognized the existence of these political divisions of the State by certain provisions relating to them.

These provisions direct that in each organized township there shall be elected annually, one supervisor, one clerk, who shall be a school inspector, one commissioner of highways, one treasurer, one school inspector, not more than four justices of the peace, and constables, and one overseer of highways for each highway district. The Constitution also directs that the powers and duties of these officers and of the township organization shall be prescribed by the legislature.

The general law of the State gives the Board of Supervisors of each county the power to organize new townships and to divide existing townships and to alter their boundaries when necessity requires such action to be taken.

Corporate Power of Towns.—The legislature has endowed towns in this State with some corporate capacities, including the power to sue and be sued, to acquire property by purchase, gift or devise, to hold it for the use of the inhabitants, to sell and convey the same, and to make all contracts that may be necessary for the proper exercise of the powers of the town. The corporate powers are so limited by law that it has been customary to designate this kind of a municipal corporation as a *quasi-municipal* corporation,

to distinguish it from municipal corporations proper, such as cities and villages.*

At any legal town meeting the voters have power to raise by taxation such sums of money as they may deem necessary for ordinary and contingent expenses, not exceeding one thousand dollars in any one year. Any sum of money in excess of that amount can be appropriated only for some specific purpose, set forth in the records of the town, and must be used for that purpose solely.

The voters at a town meeting also have power to make provision for the erection of a town hall or other public building for the use of the inhabitants for township purposes; to adopt by-laws, and to regulate and restrain the running at large of cattle, horses, swine, sheep and other animals, and for directing and managing the prudential affairs of the township; to levy a tax sufficient to keep all highways, streets, bridges, sidewalks and culverts in the township in good repair; to elect a library board of six directors when the establishment of a public library has been authorized by a vote of the people; to regulate and control the keeping of gunpowder in any building within the corporate limits; to provide for the protection of the inhabitants against contagious diseases by establishing a quarantine, and by the erection and maintenance of a hospital for the treatment of such diseases.

The foregoing are some of the powers which the people can exercise at a town meeting in the State of Michigan. In addition to these powers, they exercise many others

* A municipal corporation proper may be defined briefly as a body politic and corporate created by act of the legislature whereby the inhabitants of a particular place are incorporated for the purpose of local government. Cities and villages are examples of municipal corporations proper, as they have all the powers needed for a complete system of local government.

Quasi-municipal corporations have certain limited powers only. They are agencies of the State created for the purposes of civil government generally, and not for the regulation of the local affairs of a compact community solely. Counties and school districts are corporations of this class.

through the medium of their officers elected at the annual town meeting, and when the functions of these officers have been described, it will be seen that the township system affords a complete scheme for regulating the public affairs of a rural community.

The Town Meeting.—The annual township meeting is held on the first Monday of April, at the place designated by law, no special notice of the time and place of meeting being given.

At this meeting, there must be elected a Supervisor, Clerk, Treasurer, School Inspector, Commissioner of Highways, Justices of the Peace, Constables, and Overseers of Highways.

As in the New England town meeting, the presiding officer is called the Moderator, and the town clerk acts as secretary of the meeting, and keeps a faithful record of all of its proceedings. The Supervisor, if present, acts as Moderator, but in his absence an inspector of election may act in his place or a moderator may be chosen by the meeting.

The ordinary rules of parliamentary procedure are observed in the transaction of business at the township meeting, and persons acting in a disorderly manner may be removed from the meeting place by the constables and fined for their misbehavior.

The election of township officers is by ballot and the same election inspectors* serve as in the case of a general election. The polls are open at nine o'clock in the forenoon and are closed between the hours of three and six o'clock in the afternoon, one hour's notice of the closing of the polls being required to be given. The town meeting for the transaction of miscellaneous business is held at one o'clock

* For a description of the duties of these officers, see Chapter XXI,

on the afternoon of the day of an annual meeting, and at this session all of the business of the town must be transacted, except the election of officers. All questions are determined by a majority of the electors voting, and the Moderator must ascertain and declare the result of the vote upon each question.

Special township meetings may be held for the purpose of choosing officers to fill any vacancies that may occur, or to transact any other lawful business. These meetings are ordered by the township board* upon the written petition of twelve electors of the township, and the clerk is required to give notice of the time and place of holding such meetings.

Township Officers.—*Supervisor.*—The Supervisor is the principal executive officer of the township. He is a member of the Board of Supervisors of the county, and is required, as the representative of his township, to attend all the meetings of that body. He is the township assessor of taxes, and must keep all books, assessment rolls, and papers, belonging to his office, in some safe and suitable place, and deliver the same on demand to his successor in office, and he is the agent of his township for the transaction of all legal business. Law suits on behalf of the township are brought by him, and he attends to the defense of all actions instituted against the township.

Clerk.—The Township Clerk has the custody of all records, books and papers of the town, and of all certificates of oaths and other papers required by law to be filed in his office. He keeps a record of the proceedings of all town meetings, and of all orders and directions and all by-laws, rules and regulations that are made at the meetings. He

* See page 195.

keeps an account with the township treasurer, showing the receipts and disbursements of that officer, and also separate accounts with each of the funds belonging to the township, so that the condition of the same can be readily ascertained at all times.

Treasurer.—This officer receives and takes charge of all moneys belonging to the township, and must account for the same under the order of the township. He is required to keep a just and true account of the receipts and expenditures of all moneys coming into his hands, in a book provided by the township, and to be delivered to his successor in office. No person can be elected to the office of treasurer for more than two years in succession.

Constables.—The number of these officers to be elected is determined by the township meeting, but no more than four can be chosen in any township. Constables are the executive officers of the courts held by justices of the peace, and perform the same functions by way of executing the orders of the court as are performed by the sheriffs and their deputies in courts of record.

Commissioner of Highways.—The Commissioner of Highways in each town has charge of the roads and bridges, and it is his duty to keep the same in repair, and to improve them as far as practicable. The work on the roads must be done by the best known methods of roadmaking, by proper grading, and thorough draining. The Commissioner has power, and it is his duty, to take general charge of highways throughout the town, and to see that they are properly constructed and maintained.

The laws of the State of Michigan, relative to the construction and maintenance of roads and bridges, and the duties and powers of highway commissioners in respect thereto, are too numerous to be detailed, and the foregoing

general statement will suffice for the purposes of our study. The Commissioner divides his township into as many road districts as he may think necessary, and after a township has been organized for fifteen years, these districts can be altered only with the approval of the township board.

Overseers of Highways.—One of these officers for each road district in the township is chosen at the annual town meeting. He supervises labor performed upon the highways, and provides the necessary tools and utensils for doing this work in a proper manner, investigates the conditions of roads and bridges, so that the same may be kept in a safe condition, and has general superintendence of the roads, bridges and culverts in his district.

Generally speaking, he acts under the direction of the highway commissioner, but in the absence of that officer, and in other cases of necessity, he has power to act independently. He performs a variety of duties under different statutes, such as enforcing the laws enacted to prevent the growth and spread of Canada thistles and milkweed, and seizing animals unlawfully running at large in his district.

In the New England town, as we have seen,* the Fence Viewer was an independent officer, but in the Michigan township the duties of that office are performed by the Overseer of Highways. When acting in that capacity, it is the duty of the Overseer to compel owners of land to observe the laws of the State, relating to partition fences, and to see that proper fences are built and maintained.

Term of Office.—The term of office of all township officers is one year, with the exception of School Inspectors,** who serve for two years, and justices of the peace, who are elected for a period of four years.

* See page 133.

** The duties of this office are described in Chapter XXII.

The Town Board.—This is an executive committee of town officers, whose duties correspond somewhat to those of the Selectmen in the New England town, in that it has power to perform many of the functions of government during the intervals between the annual township meetings, and in cases of emergency. It is composed of the Supervisor, the Clerk, and the two Justices of the Peace whose terms of office will soonest expire, any three of whom constitute a quorum for the transaction of business.

The Board is required to meet on the Tuesday preceding the annual township meeting, for the purpose of auditing and settling all claims against the township, and to examine the accounts of the treasurer and other officers having charge of the receipt or disbursement of public money. In case the voters at the annual township meeting fail to make provision for defraying the ordinary township expenses, the Board is authorized to appropriate such sums as may be needed for that purpose, not exceeding one thousand dollars in any one year.

The laws of the State confer upon the members of the Township Board many powers and impose upon them many duties, the proper exercise and performance of which are essential to the welfare of the community. Among these may be mentioned the power to license and regulate theatrical exhibitions and public shows, to appoint commissioners for the destruction of noxious weeds, to supervise the work of repairing roads and bridges, under the charge of the highway commissioner, and to provide standard weights and measures to be kept by the township clerk and used for testing the weights and measures employed in the township.

Comparison with the New England Towns.—Such, in brief, is the framework of township government as it

exists in the State of Michigan, and in the other states created out of the Northwest Territory. Although differing in details, it is substantially the form of government which was provided by the New England town meeting, and generally it is found to be the best and most satisfactory method of administering the local affairs in rural communities, because through its agency the power of local government is left in the hands of the people whose interests are directly affected.

Organization of Villages.—As the population of any community increases and the territory becomes thickly settled, the village is formed and the village form of government supersedes that of the town.

A village may be formed whenever any part of a township or townships containing not less than one square mile shall have resident thereon a population of at least three hundred inhabitants. The method of procedure is by a petition, which must be signed by at least thirty legal voters of the proposed village, and addressed to the County Board of Supervisors, which hears and determines the matter, and if the petition is granted, directs the time and place for holding the first election of village officers.

Any village organized in this way is a body politic and corporate under the name specified in the petition for its organization, or given to it by the Board of Supervisors, and has power, under this name, to make contracts and to acquire and own real and personal property necessary for the purposes of the municipality.

Village Officers.—In each village, the following officers are elected by the people, namely: a President and six Trustees, who constitute the Village Council, one Clerk, one Treasurer, who is also the Collector of Taxes, and one Assessor. In addition to these officers, the President, with

the consent of the Council, may appoint a Marshal, who is the principal police officer of the village, and a Street Commissioner, who has charge of the labor, repairs and improvements upon the streets, alleys, sidewalks, bridges, culverts, drains and public grounds of the village.

The Council may from time to time by ordinance or resolution provide for the appointment of such other officers as are deemed necessary for the proper administration of the affairs of the village.

All these officers are elected or appointed for the term of one year, with the exception of the Trustees, whose term of office is two years. At the first election, six Trustees are chosen, three of whom hold office for one year, and three for two years. At subsequent annual elections three Trustees are elected, who hold office for two years. By reason of this provision, it follows that the Village Council always contains at least three members who have had some experience in the discharge of their duties.

The Board of Trustees of a village has substantially the same powers and duties as the City Council of a city, and the President of the village performs substantially the same functions as the Mayor of a city. The powers and duties of the President and Trustees of a village will not be stated in detail at this time, for the reason that in the following chapter the government of a city will be explained, and everything therein contained as to the powers and duties of the Mayor and Aldermen of the city is equally applicable to the President and Trustees of the village. For the same reason, it is not deemed advisable to describe in detail the duties of the executive officers of villages, as they correspond quite closely to the duties of the same officers in townships and cities.

CHAPTER XX.

THE GOVERNMENT OF CITIES.

The system of municipal government in vogue in this country has been the least successful of all of our political institutions. The scheme of government provided by our forefathers has been satisfactory in national and state affairs, but this has not been the case in the government of cities. The problems of municipal government received but little attention from them, doubtless because they believed that the citizens of a community should have sole charge of the regulation of local affairs. Even if they had considered it a part of their duty to provide a scheme for municipal government, it is doubtful if such a scheme would now be successful, for the reason that the questions which now confront those who are charged with the administration of city affairs did not exist in the latter part of the eighteenth century.

When the Constitution of the United States took effect in the year 1789 there were no large cities in the country. The largest city was Philadelphia, which had a population of about 31,000 inhabitants. Next in size was New York, with a population of 23,000, then came Boston with a population of 18,000. These were the largest cities in the original thirteen States, and there were scarcely a dozen others with a population of 5,000 inhabitants each, so it is apparent that questions of municipal government could not have been

troublesome in those days, because it is not in small cities that the present abuses exist.

In noting the marked changes which have taken place in the conditions of city life, an eminent historian draws a vivid picture of the strange world in which Washington would find himself were he to walk the streets of one of our modern cities, when he says: "He never in his life saw a flagstone sidewalk nor an asphalted street, nor a pane of glass six feet square. He never heard a factory whistle; he never saw a building ten stories high, nor an elevator, nor a gas jet, nor an electric light; he never saw a hot-air furnace, nor entered a room warmed by steam; he never struck a match, nor sent a telegram, nor spoke through a telephone, nor touched an electric bell; he never saw a horse car, nor an omnibus, nor a trolley car, nor a ferry boat. Fancy him boarding a street car to take a ride! He would probably pay his fare with a nickel, but the nickel is a coin he never saw. Fancy him staring from the window at a fence bright with theatrical posters, or at a man rushing by on a bicycle."*

This quotation, specifying only a few of the incidents of life in a great city, illustrates the changes which have taken place between the year 1789 and the present day, and it is these changes that have called our present municipal governments into existence. The regulation and construction of sidewalks and of buildings, and the elevators in them, the lighting of streets by gas and electricity, the supervision of street railways and of carriages, bicycles and pedestrians upon the public streets are subjects of municipal regulation which were unknown in the days of Washington.

*McMaster's School History of the United States, page 178. American Book Company, 1897

Origin of the Modern City.—Municipal government in the United States is derived from that of English cities, having been modified from time to time as circumstances required, or seemed to require, so that the system now represents an irregular growth of over a hundred years, instead of a systematic, conservative and well defined plan, such as exists in our national and State government.

The origin of the modern city dates back to the history of England of about the eleventh century, when towns and cities began to grow in importance and received royal recognition. The government of these cities originated with the guilds, or organizations of artisans. In those times each of the different trades found it necessary to form organizations for their mutual protection. These associations soon grew to be the most important features of industrial life in the cities in which they existed. Each guild had its own guild hall and held its own meetings. The chief man of the guild was termed an alderman, and the government of the cities came to be vested in the aldermen representing the different guilds. From their own number the aldermen elected a chief executive officer, styled the Mayor. Thus the government of the modern English city began, and, like that of the town and the county, has come down to us modified to suit present conditions of life.

When the Constitution of the United States was adopted nearly all of the cities were governed on the plan of the New England town meeting, except the city of New York, which had the first city government in this country. The town meeting was satisfactory until the cities became so large that the annual meetings of the citizens were unwieldy from the number attending them, and each individual citizen could no longer have a voice in public affairs. In such a case an application would be made to the State legis-

lature asking that a charter be granted providing a scheme of government and incorporating the city as a body politic. Under such charters the people no longer controlled public affairs by their individual vote and acts, but the functions of government were performed by representatives elected by the people.

Incorporation of Cities.—This method of procedure has been employed in the State of Michigan, and the governments of all cities in the State, whether incorporated by special act of the legislature, or by general law, have the same general characteristics, although in some cases differing as to minor details.

The general laws of the State providing for the incorporation of cities of the fourth class, will be taken as the basis for describing the manner in which cities are organized, as well as the powers of the city government, and the functions of its officers.* Under this law, all cities having a population not exceeding ten thousand inhabitants are cities of the fourth class. Any incorporated village having a population of not less than three thousand nor more than ten thousand inhabitants may become a city of this class, upon compliance with the law.

The law provides that any one hundred or more freeholders, residing in the village, may present to the village council a petition, setting forth the population as shown by the last census, and requesting that the village be incorporated as a city of the fourth class. If the statement of the population contained in the petition is true, it then becomes the duty of the council to submit the question

* Owing to the fact that the government of the larger cities of the State is prescribed by a special charter in each case, it is impossible to select any one of them as a type for all without confining the description of its government to general statements solely.

of incorporating as a city to the voters at the next annual village election.

In case a majority of the votes at this election are in favor of the proposition, the council is required to set forth in its records a complete record of the election proceedings and their result. A certified copy of this record, which is called a "declaration of incorporation," is filed in the office of the Secretary of State, and a similar copy in the office of the County Clerk of the county in which the village is located. With the filing of these declarations, the process of incorporating as a city is complete, but the village officers continue to perform their duties until the first election of city officers, which is held on the first Monday in April next after the filing of the declaration of incorporation in the office of the Secretary of State.

A city government, as thus established, has a legislative and executive department, whose duties are clearly defined. It has no judicial department, except the police courts, which determine minor cases of a criminal nature, and justice courts whose jurisdiction has already been described.

The Legislative Department—The power of making laws for the government of the city is vested in the city council, composed of the mayor, the city clerk, and the aldermen, the last named officers being representatives of the different wards into which the city is divided. The wards vary in number, according to the population and size of the city. If the population of the city is less than five thousand inhabitants, it is divided into three wards; if the city contains a population of more than five thousand inhabitants, it may be divided into four wards, and an additional ward may be created for every additional two thousand inhabitants above five thousand and up to ten thousand.

In larger cities the number of wards is determined by the provisions of the city charter.

Two aldermen are elected from each ward, and their term of office is two years.

Aldermen.—A person to be an alderman must be a qualified voter, and he must reside within the ward for which he is elected. He is ineligible if he is a defaulter to the city or any other municipal corporation, or if he has ever been convicted of malfeasance, bribery, or other corrupt practice or crime. He must not be interested directly or indirectly in any contract to which the city is a party. He cannot hold any other office under the city government, and he must not be engaged, either individually or as a member of a firm, in any business transaction with the city, or with any of its officers, whereby any money is to be paid, directly or indirectly, out of the treasury.

Powers of the City Council.—The laws made by the city council are called ordinances, and are as binding upon the citizens as the laws of the State and nation, but no city council can enact an ordinance which in any way is contrary to the constitution or laws of the State or of the United States.

It may at first appear as if the subjects upon which a city council can legislate are few, and that the office of alderman or member of such a council is not an important one, but the contrary is the case. If we analyze the conditions of life at the present day, it will be found that a large number of matters affecting the daily welfare, happiness and health of the citizen come under the authority of a city government. So extensive are the powers of a city council that the enumeration of them requires forty separate paragraphs of the statute, in addition to many sections devoted

solely to that subject. These powers may be generalized as follows:

1. The city government, through its council, levies all taxes necessary for the support of the city government and directs its financial affairs.

2. It controls the police force, which is charged with protecting life and property and enforcing the laws in all sections of the city, and it establishes and maintains the police courts.

3. It supports a fire department. The necessity of the proper management of this department of the city government has been made painfully apparent in cities of the United States by a series of great conflagrations which, in many cases, have destroyed large portions of the city and inflicted an enormous loss upon public and private interests.

4. It has the care of streets, alleys and public grounds, including the regulation of the lighting by gas and electricity and the construction and control of a system of sewerage. It is important that the streets should be of uniform width, with durable pavements, good sidewalks and curbs. The question of sewerage and its proper disposal is of vital interest, because upon this largely depends the health of the people.

5. It constructs and maintains a system of water works, that all citizens in their homes and places of business may receive an ample supply of water both for drinking and sanitary purposes. The city council has the power of framing laws to provide such a system and to maintain and preserve its efficiency.

6. It protects the health of the citizens and prevents the spread of contagious diseases by the enactment of necessary ordinances and by the appointment of the necessary officers to compel an observance of the same.

7. It maintains city prisons as an adjunct of the police department, in which violators of the law may be confined, until such time as their cases are heard by some competent court and they are either discharged or committed to the county or State institutions.

8. It supervises and controls the traffic in alcoholic liquors, to protect the general welfare of the community. The evils of the indulgence in and the misuse of alcoholic liquors are apparent in every community, and while the manufacture and sale of liquor is not illegal as a general rule, still it is necessary to place it under restrictions.

Therefore, it is provided that any one wishing to engage in the sale of liquor, after complying with the laws of the State and the United States relating thereto, is also obliged to obtain a license from the city government. These licenses should be issued only to responsible persons, who will observe the laws governing the liquor traffic. Unfortunately, in many of our large cities these precautions are not observed, and much of the crime and unhappiness connected with life in a great city can be traced to the negligence of city officials in respect to this subject.

9. The regulation of street railroads is another of the important duties to be performed by the city government. The city council can grant to companies or individuals a charter, permitting them to operate railroads upon the streets of the city.

These railroads, in large cities, have become enormously profitable, and frequently the company, after its right to conduct a railroad has become vested, has managed its affairs with too little regard for the comfort and convenience of the public. It is the duty of the city council in granting such charters to see that proper precautions are taken to protect the citizens. The streets are public property, and

persons or corporations using them for profit should be required to pay to the city government a proper compensation for their use, and to provide suitable accommodations for the convenience of the people at a reasonable price.

10. The city council has authority to regulate the erection of private buildings. This may seem an invasion of the right of an owner of land to erect a building of such size and style of construction as he chooses, but reflection will show that unless proper precautions are taken to erect buildings of such materials as to prevent the rapid spread of fire, and of such construction as to prevent accidents to their occupants and people passing upon the streets, and with such sanitary arrangements as will protect the health of the community, the public is likely to suffer.

11. It supervises the management of the charities, public hospitals, asylums, parks and public grounds belonging to the city.

12. It has the power to prohibit any offensive or unwholesome business or establishment within the city limits and to direct the location and regulate the use and construction of breweries, packing houses, distilleries, livery stables, blacksmith shops, soap factories and other buildings used for purposes that may be obnoxious to the citizens.

13. It can establish public libraries and reading rooms for the free use of the people and can levy taxes for the support of the same.

The foregoing are among the more important powers and duties of the city government. While not complete, this summary serves to show the complexity of life in a great city and the necessity for an intelligent management of public affairs.

The Executive Department—The Mayor.—The executive department of the city is represented by the mayor,

who is the chief executive officer and is elected by the people for a term of one year. He is vested with some control over the legislative acts of the city council, as he is the presiding officer of that body, and has the power of vetoing any measure which he may deem prejudicial to the public interest. In case of a veto a two thirds vote of the entire city council is required to enact the law.

The Mayor has the authority to appoint all non-elective officers of the city, and to fill all vacancies in such offices by and with the advice and consent of the city council. This power is one of great importance, because by virtue of it, in large cities, a mayor is able to fill numerous offices, and upon the character of his appointments depends the efficiency of the public service. The tendency at the present time is to curtail this power by the enactment of legislation on lines similar to those of the national civil service law, described in a preceding chapter*, and everything that has been said heretofore as to the necessity for a national civil service law applies with equal force to the officers of a large city. Upon a formal charge, the mayor can remove any officer appointed by him, if, in his opinion, the interests of the city demand such removal.

He may exercise within the city limits the powers of the sheriff to suppress disorder and keep the peace. By virtue of his office he may act as the head of any of the departments. He is required to perform all duties prescribed by the city ordinances, to see that the laws and ordinances are faithfully executed, to give to the city council, from time to time, information concerning the affairs of the city, and to recommend such measures as he may deem proper. In case of the absence or disability of the

* See page 87.

Mayor, or of any vacancy in his office, the president of the city council acts as mayor temporarily.

Clerk.—The city clerk has the custody of the corporate seal of the city and all papers and records belonging to the city. He must attend all meetings of the city council, keep a record of its proceedings, and furnish certified copies of the same whenever required. In a book specifically prepared for that purpose, he records all ordinances passed by the city council, and upon it he makes a memorandum of the date of the passage and other proceedings necessary to show that the ordinance has been legally adopted by the city council. He countersigns and registers all licenses granted by the city, and has all the powers of a township clerk*, so far as the same are required to be performed within a city. He is the general accountant of the city. In this capacity, he examines and adjusts all claims against the municipality, and reports to the council as to their validity. If a claim is allowed against the city, the clerk draws his warrant upon the treasurer for its payment.

The clerk exercises a general supervision over the financial affairs of the city, and the books and accounts of all officers charged with the receipt, collection or disbursement of the public funds. He must countersign and register all bonds issued by the city, and keep a list of all its property and effects, as well as its debts and liabilities.

Treasurer.—The city treasurer is required by law to receive all moneys belonging to the city, and to keep his accounts in such a manner as the law directs, which accounts are always subject to the inspection of the city council. Every person paying money into the treasury receives from him a receipt, specifying the date and purpose of payment. He is obliged to furnish to the clerk a monthly statement

* See page 192.

of the financial affairs of the city, and to make and present to the council annually a full and detailed statement of the receipts and disbursements of the treasury. He can pay out money only upon warrants drawn upon him, which must be signed by the clerk and countersigned by the mayor.

The city treasurer is also the custodian of all school and library funds belonging to the school district, and pays them out upon the warrants of the board of education of the district. He is required to keep all public money in his charge separate and distinct from his own funds, and is strictly prohibited from using for his own benefit any of the funds of the municipality or the school district of which he is treasurer.

Comptroller.—In some cities, the charter provides for the appointment of a comptroller, who has general supervision of the financial affairs of the city, and performs those duties in relation to the city finances, which in other cities are imposed upon the clerk.

Justices of the Peace.—Two of these officers are elected by the people in each city of the fourth class. They have the same jurisdiction and powers in civil and criminal matters as are conferred upon justices of the peace by the general laws of the State* and in addition have authority to hear and determine all cases arising under the ordinances of the city. All fines, penalties and forfeitures collected by any justice of the peace for violations of the laws of the State or of the ordinances of the city must be paid over to the city treasurer on or before the first day of the month next succeeding the date of their collection.

Other Executive Officers.—The law provides for the appointment by the mayor, with the approval of the city council, of the following officers, viz: City Attorney, City

* See page 174.

Marshal, Street Commissioner, City Surveyor, City Assessor*, and Chief Engineer of the Fire Department; in addition to these officers, the city council can from time to time provide by ordinance for the appointment of such other officers as may be deemed necessary for the proper administration of the affairs of the city. Every elective or appointive officer must be a qualified voter of the city, and if elected or appointed for a ward, must be an elector of that ward; no person can be elected or appointed to any city office who has been or is a defaulter to the city or any other municipal corporation; and all officers of the city are required to give bonds for the faithful performance of their duties, in such amount, and with such sureties, as the law requires in each particular case.

The *City Attorney* is the legal adviser of the council and of the officers of the city. He is required to perform such legal duties as may be requested by the city council or any of its committees. He must keep a proper record of all actions in court in which he appears, and in which the city is a party, and of all proceedings in such suits. The city attorney takes charge of the defense of those actions which are brought frequently to recover damages for personal injuries occasioned by defective sidewalks, streets and public buildings. He prosecutes all offenses against city ordinances, and acts as the attorney and solicitor for the city in all cases in which it is interested.

In many of the larger cities, an officer called the Corporation Counsel is the head of the municipal law department.

City Marshal.—He is the chief of the police of the city,

*The duties of this officer are described in connection with the revenue laws of the State.

and acts under the direction of the mayor. It is his duty at all times to protect citizens in the enjoyment of their personal and property rights, to preserve peace and order throughout the city by arresting disorderly persons and suppressing riots and disturbances, and to see that all laws of the State and ordinances of the city are properly observed and enforced. The officer performing these duties is frequently entitled the Chief of Police.

Street Commissioner.—This officer, as his title indicates, is concerned with the work of repairing and improving the streets, alleys, sidewalks, parks and public grounds. He superintends all work of this kind which the council directs shall be performed under his supervision, and reports monthly to the city council as to the condition of the various matters under his charge.

City Surveyor.—The powers and duties of this officer are similar to those of the county surveyor, and do not require an extended description. He makes all necessary plats, maps, surveys, plans and specifications, as required by the city officers, in connection with the construction and maintenance of public works of all kinds.

Departments and their Officers.—The foregoing are the only officers for whose election or appointment specific provision is made by the law of the State governing the administration of city affairs, but the city council, as already stated, has the power to create such other officers and places of employment as it may deem necessary and expedient for the proper transaction of public business, and the general law enumerates several branches of municipal government, requiring the services of additional officers.

Board of Public Works.—In every city incorporated under the general law of the State, there must be a Board of

Public Works, composed of five members, who shall be freeholders and electors of the city, and who shall serve without compensation. The members are appointed by the mayor, by and with the consent of the council, and in order that partisanship may be avoided, the law directs that no more than three members shall belong to the same political party.

The term of office of a member of this Board is five years, one member being appointed each year, so that the membership is continually changing, and at the same time is composed largely of experienced persons.

Under the direction of the city council, the Board of Public Works is charged and entrusted with the construction, management, supervision and control of the municipal waterworks, lighting plants, sewerage system, and such other public works as the city council may place under its charge.

Whenever the expense of any such public work does not exceed two hundred dollars, it may be done by the Board in such manner as they may deem proper, but whenever the expense exceeds that sum, the plans, specifications and estimates must be submitted to the city council for its approval. In case the expense exceeds the sum of five hundred dollars, the contract must be awarded to the lowest responsible bidder, after due advertisement for proposals. All work done under the supervision of this Board must be reported to the city council from time to time, and an annual report must be made on the third Monday in April of each year, embracing an itemized statement of the business of the Board.

Department of Police includes the City Marshal, or Chief of Police, who is the head of the department, and

such number of policemen and night-watchmen as may be prescribed by the city council. It is the duty of the police department to suppress all riots and breaches of the peace, to arrest all persons in the act of committing any offense against the laws, and at all times diligently and faithfully to enforce observance of the laws of the State and the ordinances of the city.

Department of Health.—It is the duty of this department to exercise a general supervision over the sanitary condition of the city, and for that purpose to employ the necessary inspectors and officers. It must adopt proper measures to arrest the progress of malignant, contagious and pestilential diseases, and see that all laws of the State and ordinances of the city in relation to sanitary matters are enforced.

The proper discharge of these duties is a matter of the greatest importance to the welfare of the people, and consequently the department is vested with great powers, which it can exercise in case of necessity, such as quarantining boats and railway trains and compelling the vaccination of persons in proper cases. Its officers also have authority to enter houses or other buildings and cause them to be cleansed, disinfected or closed, if necessary, to prevent the spread of contagious diseases. It has charge of the city hospital, which is maintained for the proper care of persons who may be committed to it.

Fire Department.—The head of the department is the Chief Engineer, and in large cities there are also a number of captains, lieutenants, engineers, pipemen, drivers, truckmen and telegraph operators.

The Chief Engineer has absolute control of all of the officers and members of the department. It is the duty of

the Fire Department to take such measures as will protect the citizens from loss by fire. To accomplish this, it is vested with extraordinary powers, and can cause the removal of any building whenever it shall become necessary to prevent the spread of fire. In some cities, the Fire Marshal is an important executive officer of the Department.

Libraries.—A Public Library may be established by the city council, pursuant to the provisions of the laws of the State. These laws authorize any city, town or village to establish a free public library and reading room, and to levy a tax to support it. The public library and reading room, when so established, is under the control and management of a board of nine directors, who are appointed by the mayor and confirmed by the council. These directors have sole charge of the management of the library and the expenditure of the money raised by taxation for its support. They appoint the librarian and assistants, and make all rules relating to the government of the library.

NOTE.—The large cities of the State have many other officers and departments performing duties of great importance to the citizens. For an enumeration of these offices and a description of their duties, reference must be had to the charters of the respective cities.

CHAPTER XXI.

ELECTION LAWS.

In any democratic form of government, founded upon the principle that the government derives all of its powers from the consent of the governed, there are many questions which must be submitted to and decided by the votes of the people. All the important executive and judicial officers of the State and its subdivisions, members of the legislature, supervisors and aldermen are elected by the people. Many governmental propositions, such as incorporation of villages or cities, the annexation of territory to municipalities, the issuing of bonds, and amendments to the Constitution of the State must be ratified by a vote of the people before they become operative.

Therefore, the method of conducting elections, the qualifications of the voters, and the various regulations pertaining to the exercise of the right of suffrage or the elective franchise are matters of prime importance to the citizens of the State.

The right of voting is one of the most valuable prerogatives of citizenship, and the duty of voting and taking part in public affairs should never be neglected by patriotic citizens.

Citizens and Voters.—The mistake must not be made of supposing that every citizen has the right to vote. The Constitution of Michigan restricts the exercise of the right

of suffrage to those male citizens of the United States, above the age of twenty-one years, who have resided in the State six months, and in the township or ward in which he offers to vote twenty days next preceding the election. In addition, every male inhabitant residing in the State on June 24, 1835, every male inhabitant residing in the State on January 1, 1850, every male inhabitant of foreign birth having resided in the State two and one half years prior to November 8, 1894, and having declared his intention to become a citizen of the United States two and one half years prior to said last named date, and every civilized male inhabitant of Indian descent, a native of the United States, and not a member of any tribe, shall be an elector and entitled to vote.

The term "citizen" is very often misunderstood. A citizen is a person who is a member of a free state, and while it is true that all voters must be citizens, it is not true that all citizens are voters. All persons who are born within the State, regardless of age or sex, are citizens; persons born in other countries may become citizens by complying with the laws relating to naturalization.* In the United States all persons born or naturalized in the country, and subject to the control of its government, are citizens of the United States and of the State in which they reside. This does not include Indians on reservations, who are treated as a foreign people residing within our borders and preserving their original tribal form of government.

The election laws of the State minutely provide for the registration of voters, the receiving and recording of the votes, and certifying and declaring the results of elections, and a general knowledge of the various steps which must

* See page 64.

be taken in holding an election should be possessed by every citizen.

Registration.—It is important that the right of suffrage be exercised by none but qualified voters, and, therefore, the legislature has enacted general laws, requiring a registration of electors, in order to guard against the abuse of the elective franchise.

By this law, a board of registration is created in every municipality of the State, before which any citizen who wishes to vote at an election is obliged to appear and to show satisfactorily that he has the qualifications of an elector. Having done this, his name is registered, and he then becomes entitled to vote.

It is the duty of this board to provide suitably bound books or registers, in which must be made an alphabetical list of the names of all persons declared by the Constitution to be entitled to vote, residing in the ward or township, and the date of the registration. In cities and villages, the residence of the elector must be given by the number of the dwelling and the name of the street.

It is also the duty of the board to question every person presenting himself for registration concerning his qualifications as a voter, and the applicant must make truthful answers in all cases.

The composition of the board of registration, and the method in which it discharges its duties, varies somewhat in the different municipalities of the State, rendering it difficult to make a general statement in respect thereto, which will be applicable to all cases. Therefore, the method of registration employed in the different classes of municipalities will be described briefly, leaving it for the individual student to ascertain and become familiar par-

ticularly with those parts of the law governing registration in the community in which he lives.

Generally speaking, the aldermen of every incorporated city constitute its board of registration, which is required to be in session on certain days previous to every election, at such places in the several wards as may be designated by notices given in the following manner. At least two weeks prior to any such session, a notice of the place of holding the same must be published in one or more of the newspapers of the city, and must be posted in handbill form in at least ten conspicuous places in each ward.

This handbill also contains a true copy of the list of names then appearing in the register for the ward. At the close of the polls after every election, the names of additional electors then appearing on the register are attached to the list on the handbill, so that such handbill, when so corrected, will contain a complete list of the registered voters. This list must be filed in the office of the county clerk, who must carefully keep and preserve the same.

At the close of their sessions, the members of the board who make the registration in each ward sign and date the list and deposit the same for safekeeping with the city clerk, who delivers it to the inspectors of election for use during election, after which it must be returned to the city clerk.

In townships, the board of registration is composed of the supervisor, treasurer and clerk of the township. The duties of this board are the same as have been described in the case of cities, and in case a village is located in the township, a separate register is made of the electors residing in it, which is known as the village election register.

The registers are required to be made of good paper,

and substantially bound, the form of the record in the case of each elector being as follows:

Date	Name.	Residence.	Remarks.
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The law contains ample provisions to prevent fraudulent registration, and no person is allowed to vote at an election whose name does not appear on the register of the ward, township or village in which he resides.

Election Districts and Precincts.—For obvious reasons, it is not desirable that too many persons vote at one place, therefore, townships containing at least three hundred electors may be divided into two or more election districts, the evident intention of the law being that one hundred and fifty electors should be included in each of these districts. In a similar way, villages and the several wards of cities may be divided into election precincts solely for the purpose of convenience in holding elections. Ordinarily speaking, not more than four hundred people can vote conveniently at one place during the hours that the polls are open, and as the population shifts, a re-arrangement of the election districts is required. A village or ward may be divided into precincts when it contains more than six hundred and fifty qualified voters.

Inspectors of Elections.—These officers have charge of the details of conducting the election at each of the polling places, and see that the votes are cast in the manner provided by law. In townships, the supervisor, two justices of the peace, and the township clerk act as inspectors. In cities, the aldermen and assessors of each ward act in the same capacity. In case these officers are unable to perform their duties as such inspectors, provision is made for the election of inspectors by the voters at the polls.

Special provision is also made for the appointment of inspectors in each election district, so that there may be four of these officers present at every polling place.

It is the duty of inspectors of election to cause proclamation to be made of the opening and closing of the polls, to preserve order at the election, to deliver an official ballot to each elector, to attend to the deposit of the ballot in the box after they have been marked by the voters as described hereafter, and in general to compel an observance of every detail of the law relating to the casting and counting of the votes at each polling place.

Election Commissioners.—Each of the municipalities of the State, including counties, townships, villages and cities, has a board of election commissioners. In counties, this board is composed of the judge of probate, county clerk and county treasurer; in townships, the township board, which has been described heretofore*, acts as a board of election commissioners; and in cities and villages, the members of the board are elected by the common council.

The principal duty of this board is to attend to the preparation of the official ballot for each election. This ballot** must contain the names of all candidates to be voted for at the election for which it is prepared, and all questions to be submitted to popular vote, and it is the duty of the state, district or county committee of each political party to certify to the chairman of the board the names of all candidates regularly nominated*** by the party which the committee represents.**** It is also the duty of the state committee of every political party in the State

* See page 195.

** For Form of Ballot, see opposite page.

*** As to method of making nominations, see page 116.

**** For a description of party organization and political committees, see page 115.

to prepare and adopt, by engraving or otherwise, a vignette to be printed at the top of the column of the official ballot assigned to such party, as a distinctive and characteristic heading. A copy of this vignette must be sent to the election commissioners with the names of the candidates.

The names of all candidates are printed on one ballot, and the ticket of the party which cast the greatest number of votes in the county at the last preceding general election is placed first on the ballot. The statute provides for every detail needed in the preparation of the ballot and their delivery to the inspectors of election for every voting district in the State. These details are so numerous that it would be tedious and unnecessary to mention them, and it is sufficient to state that its arrangement must correspond, as nearly as may be, to the following plan:

FORM OF BALLOT.

NAMES OF OFFICER VOTED FOR.	VIGNETTE. DEMOCRATIC. ○	VIGNETTE. REPUBLICAN. ○	VIGNETTE. INDUSTRIAL. ○
STATE.			
Governor.....	<input type="checkbox"/> Edwin B. Winans.	<input type="checkbox"/> James M. Turner.	<input type="checkbox"/> Lyman A. Brant.
Lieutenant Governor	<input type="checkbox"/> Frederick Braastad.	<input type="checkbox"/> Lemuel G. Dafee.	<input type="checkbox"/> William A. Johnson.
Secretary of State....	<input type="checkbox"/> Daniel E. Soper.	<input type="checkbox"/> Washington Gardner.	<input type="checkbox"/> William H. McKinstry
CONGRESSIONAL.			
Representative in Congress - fifth Congressional district.....	<input type="checkbox"/> Edwin F. Uhl.	<input type="checkbox"/> Charles W. Watkins.	<input type="checkbox"/> Dudley O. Watson.

NOTE.—The official ballot at a general election contains the names of many other offices and the respective candidates for the same. The above is intended only as an illustration of the general plan of arrangement followed in making up the ballot.

Instructions to Voters.—The election commissioners are required to print on the ballot certain instructions for the guidance of voters in marking their ballots. These instructions are set forth in the statute, and cannot be varied. They are substantially as follows:

1. In case the elector wishes to vote a straight party ticket, he must place a cross (X) in the circle under the name of his party at the head of the ballot. In this case, nothing further need be done, and when so marked and properly folded, the ticket is then ready to be deposited in the ballot box. If the voter wishes to vote for candidates not on his party ticket, the remaining instructions must be observed.

2. Where only one candidate is to be elected to any office, and the voter desires to vote for a candidate not on his party ticket, he must make a cross in the square before the name of the candidate on the other ticket for whom he desires to vote.

3. When two or more candidates are to be elected to the same office, and the voter wishes to vote for candidates on different tickets for such office, he must make a cross in the square opposite the candidates of his choice on the other ticket, and also erase an equal number of names of candidates for the same office on his own party ticket.*

4. If the voter desires to vote for a candidate whose name is not on any ticket, he must write or place the name of such candidate on his ticket, opposite the name of the office.

5. The voter must then fold his ballot in such a way as to display on the outside the initials of the election

* An instance when this instruction can be followed is in the election of circuit court commissioners, as several of these officers are usually chosen at one election.

inspector, which have been written on the upper left hand corner of the back of the ballot.

Ballot Boxes.—One or more of these boxes is provided at the expense of the township or city, as the case may be, for each township, ward or voting precinct. The box must be provided with a lock and key, and must have an opening through its lid of the proper size to admit a single folded ballot. Through this opening each ballot is passed into the box.

Before opening the poll at each election, the ballot box must be opened, and its contents, if any, be removed; it must then be locked and the key delivered to one of the inspectors. As a general rule, the box must not be opened during any election.

Polling Places.—In every township and voting precinct in the State, a suitable room is selected by the proper officers as a place for holding the election. This room is designated as the polling place of the township, district or precinct, as the case may be, and must not be in any saloon, bar room, or place adjoining thereto. A railing four feet in height is erected across the room, and is provided with gates for the entrance of the voters. No person is allowed within except for the purpose of voting or assisting some elector in the preparation of his ballot. In the space enclosed by the railing, one booth is provided for each hundred persons entitled to vote at the polling place. These booths are occupied by voters in the preparation of their ballots, and must be so constructed that the person inside is concealed from the observation of all others.

Voters are admitted in the order in which they apply and only as many electors as there are booths are allowed within the railing at one and the same time.

Method of Voting.—Voting in the State of Michigan is conducted under what is known as the Australian system.* At the opening of the polls, the packages of official ballots furnished by the election commissioners are opened by one of the inspectors, and fifty of them are delivered to another inspector, who proceeds to write his initials on the upper left hand corner of the back of each of them. This is done for the proper identification of the ballots.

As each successive elector presents himself and is found to be a qualified voter, he is given one of these ballots, by another of the inspectors. He then retires to one of the booths within the railing, and prepares and folds his ballot in accordance with the instructions heretofore stated.

After this has been done, the voter leaves the booth and delivers his ballot to one of the inspectors, who thereupon announces audibly the name of the elector offering the same. The clerks then note the same and consecutive number of the elector on their poll lists, and the inspector then, in the presence of the elector, deposits the ballot in the box.

Such, in substance, is the method of voting under the Australian system, and in every community where it has been introduced its workings and results have been satisfactory, so that now it is doubtful if the system will ever be changed. Its principal merit lies in the fact that it provides for an absolutely secret ballot, thus preventing bribery and intimidation of voters.

Counting the Vote.—Immediately after the polls are closed, the inspectors in the different precincts begin to canvass the votes cast, and the canvass cannot be adjourned

* This system was first proposed by Hon. Francis S. Dutton, a member of the legislature of South Australia. It was embodied in the laws of Australia in 1857, and its principal features have been adopted in Canada and many of the States of the United States. See Peterman's *Elements of Civil Government*, Chapter XIX, which contains an excellent account of the system as used in different States.

or postponed until it has been completed. The process of counting the ballots is provided in detail by statute, and the most explicit arrangements have been made to prevent a false count in the case of any candidate or proposition submitted to vote.

When the canvass has been completed, the total number of votes received by each candidate shall be publicly declared by one of the inspectors.

Boards of Canvassers.—In each county of the State, the board of supervisors is required to choose, every second year, three persons, who, with the county clerk, are constituted a board of county canvassers.* This board meets at the office of the county clerk shortly after each election, and proceeds to canvass the votes cast for county, state and federal officers, as shown by the returns filed in the office of the county clerk by the various boards of election inspectors.

It is also their duty to declare the result of the election of county officers and members of the legislature, when the county alone constitutes one or more senatorial or representative districts, and to publish a full statement of the votes cast in at least two newspapers circulating in the county.

Similar duties are performed by a board of district canvassers in each election district for the election of a senator and representative in the state legislature, the limits of which are greater than those of a county. This board is composed of the clerks of the several counties in the district, the judge of probate, and the sheriff of the county in which the meetings of the board are held. It certifies, declares and causes to be published the result of the elec-

* In Wayne County this board consists of five members, as follows: The Probate Judge, County Treasurer, two members of the Board of Auditors, and one citizen elector chosen by the Board of Supervisors.

tion in the district, and the number of votes given to each candidate.

The board of state canvassers is composed of the secretary of state, the state treasurer and the commissioner of the state land office. This board canvasses the votes cast for state and federal officers, and on questions submitted to popular vote,* as shown by the returns filed by the clerks of the various counties in the office of the secretary of state, and when this has been done it makes proper certificates of the election of such officers, and declares and publishes the result of its canvass.

Elections.—In the State of Michigan, there are three elections, to all of which the rules already given are applicable. A general election is held every two years on the first Tuesday following the first Monday in November, at which are chosen most of the State officers, representatives in Congress, and county officers, except the commissioner of schools. In addition, presidential electors are chosen every four years at this election.

The spring election occurs on the first Monday in April of each year. Township officers are elected at this time, also judges of the circuit and supreme courts, and regents of the state university.

Local elections for village and city officers are also held in the spring, many of them occurring on the second Monday of March in each year. The time of holding city elections depends upon the provisions of the charters of the respective cities, and is not the same in all cases.

Primaries.—In the broadest sense of the term, these are elections held by a political party, or by any voluntary political association, for the purpose of choosing delegates to political conventions, members of various managing

* For example, a proposed amendment to the Constitution.

committees of the party, and some times for the nomination of candidates for public office.

A general law of the State has been enacted, governing primary elections in cities of not less than fifteen thousand and not more than one hundred and fifty thousand inhabitants. In municipalities not within the jurisdiction of the general law, or of special acts,* primary elections are held in accordance with the rules of the party holding them. A primary election held in the latter way is sometimes called a "caucus."

We shall consider only primary elections held under the provisions of the general law above mentioned, as it would be impossible within the space which can be given to the subject, to set forth the rules of political parties, relating to the subject.

The time of holding the primaries of any political party is fixed by a notice given by the principal committee of the party holding the primary, and no more than one party is permitted to hold a primary on the same day.

The polls are open from two to eight o'clock P. M., and the election is under the supervision of a board of three inspectors, consisting of a chairman, who must be a member of the ward committee of the party holding the primary and a resident of the ward in which it is held, and of two qualified voters, chosen from the residents of the ward, and belonging to the party holding the primary.

Only registered and qualified voters, who are members of the party holding the primary, are allowed to vote. The voting is done by ballots, which must be provided by the inspectors, and the election may be conducted in the

* For example, primary elections in Detroit are held in accordance with a special act of the legislature. See Local Acts of 1895.

same manner as those which have been heretofore described.

It is the duty of every citizen to take part in the primaries of the party to which he belongs, particularly when delegates to nominating conventions are to be chosen, because it is the only way by which the individual can have any voice in the selection of the candidates for whom he will be obliged to vote. Notwithstanding the importance of this duty, it is neglected very frequently by citizens, and the control of primary elections is left in the hands of designing politicians.

Voting Machines.—Under the statutes of this state, the use of voting machines is permitted at elections. These machines are ingenious devices, whereby the voter is enabled to register his vote and have it counted without using a printed ballot. They have been used in a number of the larger cities in this state and elsewhere, and generally have given satisfaction. They have many advantages over the old system, which are, in brief, the absolute secrecy of the ballot, protection against fraud or mistake in counting the votes, economy in holding elections and the recording, as the election proceeds of the total vote for each candidate or proposition submitted. With the use of these machines the result of the election is known as soon as the polls are closed.

CHAPTER XXII.

THE EDUCATIONAL SYSTEM.

It may be asserted with pride by the citizens of Michigan that its local political institutions received their first impetus from the common-school system inaugurated in the early days of the Territory. As the church furnished the center for the growth of the township in New England, so the schoolhouse and the organization of the school township in Michigan prompted the beginning of local governmental institutions.

The beginning of the school system in Michigan was the provision of the Act of Congress, by which one section or square mile of land in each township was required to be set apart as the basis of a common-school fund, and the history of the State shows that from the earliest period of its existence down to the present time it has always been the special aim and object of its government to provide a system of public schools, so that all the children of the State may receive a good common-school education.

In a free commonwealth, where every one shares in the responsibilities of the government, the general education of the people is a public necessity, since there should be an enlightened public opinion to which those charged with the performance of public duties can appeal for support. For this reason every State in the Union provides for the education of its children, that they may become qualified to exercise the rights and fulfill the duties of citizenship.

Constitutional Provisions.—Education has always been a matter of special solicitude on the part of the framers of our government, and for this reason one entire article of the constitution of the State is devoted to the subject.

This article requires that the legislature shall establish a system of free primary schools, so that a school may be kept in each district for at least three months in each year, and that all instruction in these schools shall be conducted in the English language.

The Constitution also provides for the election of a Superintendent of Public Instruction, who is one of the executive officers of the State, and for the election of a board of regents of the University of Michigan, consisting of eight members, and of a State board of education, composed of three members. The duties of these officers will be described hereafter.

The legislature is directed especially to encourage the promotion of intellectual, scientific and agricultural improvement, and for this purpose it is given power to establish an agricultural school for instruction in agriculture, and the natural sciences connected therewith, and to provide for the establishment of a public library in every township and city.

School Laws.—In accordance with these requirements of the Constitution, the legislature has enacted school laws from time to time, providing in detail for the administration of school affairs in every part of the State, and for the establishment of a great variety of educational institutions. At these institutions, instruction is furnished in every branch, ranging from the fundamental studies of the primary school to the higher topics pursued in the university and scientific schools.

The University of Michigan.—This is an institution, located at Ann Arbor, in which the citizens of the State take a just pride. Its management, both from an educational and business standpoint, has been so wise and enlightened that it is accorded a high rank among the leading educational institutions of the country.

Its affairs are under the control of a board of regents, which is a body politic and corporate, under the name and title of "The Regents of the State University." This board is composed of eight members, whose term of office is eight years. Two regents are elected by the people at every general election at which a justice of the supreme court is chosen.

All matters connected with the management of the university are under its control, and it has power to appoint all necessary instructors and other officers, and to enact ordinances, rules and regulations for the government of the university.

Other State Institutions.—In order that the public schools of the State may be supplied with competent teachers, Normal Schools have been established at Ypsilanti, Mount Pleasant and Marquette for the preparation and training of teachers. These schools are under the charge of the State Board of Education, upon which the legislature has conferred all powers necessary for the proper management of these schools. The Board is composed of three members, one of whom is elected every second year, the term of office being three years.

The State Agricultural College, at Lansing, as required by the Constitution, is designed to afford instruction in agriculture and the natural sciences connected therewith. Students are admitted to this institution who are at least fifteen years of age, upon passing a satisfactory examina-

tion in the common branches of study, and can pursue a course of study furnishing a thorough scientific training.

The school is under the charge of the State Board of Agriculture, which is composed of six members beside the governor and the president of the college. These members are appointed by the governor, with the consent of the senate.

The Michigan College of Mines is also a State educational institution. It is located at Houghton, and is under the control of a board of six members, appointed by the governor. The course of instruction at this school is designed to enable its students to obtain a full knowledge of the science, art and practice of mining, and the use of mining machinery.

Among the charitable institutions of Michigan, the State Public School at Coldwater should be mentioned in this connection, as it affords a temporary home for dependent, neglected children, and furnishes them with instruction in the elementary branches. In addition the schools for the deaf and blind and the industrial schools for boys and girls are important institutions.

State Superintendent of Public Instruction.—This officer is elected every two years by the people of the entire State, and is the head of the educational system. He is the supervisor of all the public schools of the State, and must be informed fully by reading, observation and consultation with educational authorities as to the best methods of conducting common schools. He is required to visit all the State educational institutions, and their officers are required to report to him. These reports are embodied with other statements relating to educational matters in an annual report which the Superintendent makes

to the governor, and which is transmitted by that officer to the legislature at each session.

He is the adviser, as well as the superior officer, of county commissioners of schools, and of all other school officers, and is expected from time to time to give them such information as he shall deem to be for the best interests of the educational system. His powers enable him to insist that the school laws of the State shall be observed faithfully by all school officers.

County Commissioner and School Examiner.— Each county has one commissioner of schools elected by the people for a term of four years, and two school examiners appointed by the County Supervisors for a term of two years.

An examiner must be the holder of at least a second grade certificate and have taught in the public schools at least nine months or have the qualifications of a commissioner, which are graduation from the literary department of some reputable college, university or state normal school having a course of study of at least three years, or possession of a state teacher's certificate, or a first grade county certificate.

These three officers form a board of examiners who examine and test the qualifications of all desiring to become teachers and issue certificates to those found qualified.

In addition to his duties as a member of the board of examiners, the county commissioner acts as a general superintendent of the schools of the county, subject to the instruction of the State Superintendent, to whom he is required to report.

His principal duties consist in visiting the schools of the county, noting the methods of instruction, the branches taught and the text-books used, and giving to teachers and school officers such instructions and directions in the science, art and method of teaching and course of study as

he may deem expedient and necessary. He acts as the official adviser of school officers and teachers of his county, and must faithfully carry out all instructions given by the State superintendent. He is required to elevate the standard of the teachers and to improve the condition of the common schools of his county in every practicable way.

Township School Officers.—*Inspectors.*—As heretofore stated, one or more school inspectors are elected in each year. These officers, together with the township clerk, constitute the township board of school inspectors, which has a general supervision over the school affairs of all the districts composing the township. The board is required to make an annual report, showing the number of districts in the township, the amount of money raised for libraries, the manner in which the different districts have complied with the law, and such other information as may be required by the State Superintendent of Public Instruction.

Clerk.—The township clerk is by virtue of his office the clerk of the board of school inspectors. He keeps the records of the board, prepares their reports, and has the custody of all their documents. Among other duties, he is required to prepare a map, showing how the township is divided into school districts, to certify to the supervisor the amount required to be raised by taxation for school purposes in each district, and to apportion among the districts all money raised by township tax or received from other sources for the support of schools.

The Supervisor and Treasurer.—The supervisor has charge of the assessment of school taxes throughout the township, and the treasurer attends to the collection of the same. The method in which this is done will be de-

scribed generally in the next chapter, and as these officers have no duties connected with the educational part of the school system, they need not be considered further at this time.

School Districts.—The township is divided into school districts by the board of school inspectors, which has full power to regulate and alter the boundaries of districts as circumstances may require. Whenever a district is formed, the board of school inspectors must give notice of the fact to the qualified voters of the proposed district, and fix a time and place for holding a meeting to organize the district.

At this meeting, the voters choose the school officers of the district, consisting of a moderator, a director and an assessor, whose duties will be described hereafter, and transact all other necessary business.

District Meetings.—The annual meeting of the district is held on the first Monday of September, in each year, but the law permits a district to hold this meeting on the second Monday in July, if so determined at any annual or special meeting.

At this meeting all property-owners in the district, twenty one years of age, who have lived in the district for three months preceding the meeting, are qualified to vote upon all questions, and all parents or legal guardians of children in the district, qualified by age and residence as just stated, are entitled to vote on questions which do not directly involve the raising of money by taxation.

The presiding officer of this meeting is the moderator, and the director is the secretary. In case of the absence of these officers, others are chosen in their place.

Among the powers which may be exercised at this meeting, the following may be mentioned, namely, the election

of district officers, the selection of sites for school houses, the purchasing or leasing of school house sites and buildings, and the determination of the amount required to be raised by taxation for these purposes. This amount is limited by the number of children in the district, and ranges from two hundred and fifty dollars in districts having less than ten children, to one thousand dollars in districts having between thirty and fifty children, between the ages of five and twenty years. An additional tax may also be imposed for keeping school buildings in repair, providing necessary apparatus for schools, paying lawfully incurred liabilities and debts of the district, and the services of the district officers.

District Officers.—*Moderator.*—This officer presides at all meetings of the district, and of the district board, at which he is present, and is required by law to countersign all orders drawn for the disbursement of money raised by taxation for the support of the schools in the district. He has a general supervision over school moneys of the district, and in case the assessor fails to perform the duties imposed upon him by law, it becomes the duty of the moderator to cause an action to be prosecuted upon the assessor's bond.

Director.—He is the clerk of the district, and performs all of the duties usually imposed upon the clerk of any administrative body, such as keeping a record of the proceedings of all meetings, giving notices of such meetings, and drawing and signing warrants upon the township and district treasurer for the disbursement of the school money of the district. He is also an executive officer of the district, and provides the schools with the necessary charts, maps and other apparatus, keeping a careful account of all expenses incurred by him in his official capacity.

'At the annual meeting of the district, he is required to present an estimate of the expenses for the ensuing year, being the amount which must be raised by taxation for district purposes. He also takes the school census, unless some other person is appointed by the district board to perform that duty.

Assessor.—The title "assessor" as applied to this officer, is misleading, for he is in reality the treasurer of the district, and must receive and disburse all moneys available for the support of schools in the district. He is required to keep a suitable account of all of his official transactions, to make a report and statement of the same at the end of each school year, and to furnish a satisfactory bond for the faithful performance of all of his duties.

District Board.—This board is composed of the director, assessor and moderator, and, generally speaking, it has entire charge of the administration of the school affairs of the district during the intervals between the annual or special meetings of the district.

It has numerous powers and duties, including the power to purchase or lease, in the name of the district, suitable grounds and buildings for school houses, to estimate and report annually to the township clerk the amount of money required to be raised by taxation for the support of the schools of the district, to disburse the school moneys of the district, to hire teachers, to prescribe the course of study to be pursued and the text-books to be used, and to make the necessary rules and regulations for the government of the schools and for the care and custody of school property.

Teachers.—No teacher can be employed in a common school of this State who is not of good moral character and at least eighteen years of age if a male and seventeen

years of age if a female, and who does not possess a certificate of qualification.

Teachers' certificates may be granted by the State superintendent of public instruction or by the county examiners of the different counties, after suitable examinations have been held by them.

No teacher can lawfully receive any salary for services unless possessed of the required certificate of qualification. The duties of teachers are too well known to require any further description.

Women as School Officers.—One other provision of the school law should be noted, because it constitutes an exception to the general policy of the State with reference to public matters. Under the laws of this State women are allowed to vote at all district school elections, and are eligible to hold district offices under the school law of the State. The propriety of this provision cannot be questioned, because women are employed very largely in educational work as teachers and superintendents, and by nature and training they are fully qualified to deal with educational problems.

Boards of Education.—In the large cities of the State, the school affairs are administered by a Board of Education, created by act of the legislature. This Board, generally speaking, performs all the functions of district and township school officers and has entire control of the management of the school system.

CHAPTER XXIII.

TAXATION AND EMINENT DOMAIN.

Among the numerous questions which arise in administering the affairs of any government, whether it be that of a nation, state, city, village or school district, none are more important or more closely affect the happiness and welfare of the people than those which pertain to revenue and taxation. The history of nations is composed largely of the record of attempts to dispose of these questions. Sometimes the issue has been settled peaceably by discussion and mutual agreement, but frequently it has been determined by bloodshed and revolution. The latter was the case in our Revolutionary War, which originated in a difference of opinion between England and the colonies as to which should determine the nature and amount of the taxes to be paid by the people of this country.

At the present time questions of taxation and the expenditure of public money are involved in nearly every election. For these reasons, the subject of taxation is of fundamental importance to every citizen who would discharge the duties of citizenship in an intelligent and patriotic manner.

Taxes Defined.—Taxes are sums of money which the government requires its citizens to pay for its support. These payments are not voluntary, but are obligatory, and if the citizen neglects them the government collects the debt by selling a sufficient amount of his property to pay his

tax. Therefore, taxes may be defined further as that part of the property of individuals which the government takes to defray its expenses incurred for the common good of all. Revenue is the income of the government derived from taxation.

Taxation is necessary, because governments cannot fulfill the purposes for which they exist without the expenditure of large sums of money, which must be contributed by the citizens in proportion to their wealth. The revenue of the national government is raised principally by indirect taxation. Revenues of the State, county and municipal governments are raised by a system of direct taxation—that is, by levying taxes upon the value of the actual property, such as land, money, stocks or bonds, which each individual possesses.

Constitutional Provisions.—The constitution of the State determines some of the fundamental principles which must be observed in taxing citizens of Michigan and all municipalities in the State must be governed by its provisions in raising their revenue.

Taxes must be levied so that every person will be obliged to pay in proportion to the value of his property.

Certain corporations, such as banking, railroad, plank road, and others, may be required to pay a specific tax, but in all other cases taxation must be uniform.

To protect citizens from excessive taxation on account of State liabilities, the Constitution forbids the creation of a State debt of more than fifty thousand dollars, and provides that the credit of the State shall not be used in aid of any person or corporation, and that the State shall not subscribe to, or be interested in, the stock of any corporate body.

Subject to the general limitations contained in the Con-

stitution, the power of enacting the necessary revenue laws is committed to the legislature.

Exemptions.—Certain kinds of property are exempted from taxation for various reasons which are obvious in each case. No taxes are levied upon property belonging to the United States, such as custom houses and post offices, or upon the property of the State, or of any county, township, city, village or school district.

The same applies to real estate owned by library, benevolent, charitable, educational and scientific institutions, to churches and parsonages, and to burial grounds and the monuments contained in them. The property of agricultural societies, parks, monument grounds and armories are also exempt from taxation. The personal property of benevolent, charitable, educational and scientific institutions is also exempt from taxation and the same is true of a soldiers' pension, the tools of a mechanic and certain articles of household furniture, provisions and fuel.

The Objects for which Taxes are Levied.—Taxes are levied for the support of the State government, including the salaries and expenses of State officers, the maintenance of public buildings and offices in which the business of the State is transacted, the expenses of charitable and educational institutions, the equipment of the militia, and many other objects involving the expenditure of money.

At each session of the legislature certain laws are passed called appropriation bills, which fix the amount which must be raised by taxation to defray the expenses of the State government.

This amount is apportioned by the Auditor-General among the several counties, according to the value of their taxable property.

In a similar manner, the estimated expenses of the

county are determined by the board of supervisors and apportioned among the various townships. The county government levies taxes to pay the salaries of judges and county officers, and to defray the expenses of the county institutions, including courts, jails, almshouses, hospitals and asylums of various kinds.

The objects for which the government of a large city levies taxes are numerous, and the amount of money required to be raised by taxation is very large. This sum is expended for the support and maintenance of schools, the police and fire departments, public works of various kinds, salaries of officers, lighting the streets, and the expenses of the different public institutions controlled by the city. As a general rule, each year the heads of the various departments make an estimate of the amount required for the ensuing year to defray the expenses of their respective departments. These estimates are sent to the common council for revision, alteration and approval, and in some cases as in Detroit, they are again reviewed by a board of estimates by which the amounts may be reduced.

In a similar manner, the officers of townships, villages and school districts determine the amount of money required annually for their corporate purposes.

The Assessment of Taxes.—After the amount to be raised by taxation for State, county, municipal, school and other public purposes has been determined, then the proportion of this amount to be paid by each individual must be ascertained. This is called the assessment of taxes.

The just assessment of taxes is a delicate and difficult task, and the law carefully prescribes the methods to be pursued. It is necessary first to obtain an accurate list of all the property in the county which is liable to taxation. Property is of two kinds—namely, real property, consist-

ing of lands and houses, and personal property, which includes everything movable, such as money, stocks, bonds, furniture, horses, cattle, jewelry and merchandise.

Every person owning taxable property of any kind is required to make a sworn statement, showing in detail the different items of personal and real property that he possesses. These statements are delivered to the supervisor or assessor, as the case may be, and filed for future reference in connection with the work of reviewing and finally determining the amount of tax to be paid by each individual, firm and corporation.

The Assessment Roll.—On or before the third Monday of May in each year, the supervisor in towns, or the assessor in cities, must make a list of all persons in the township or assessment district, who are liable to be taxed, together with a full description of all taxable property located therein. This document is called the assessment roll. Opposite the description of each piece of real estate, the name of the owner is placed, together with the supervisor's estimate of the true cash value of the land.

The supervisor or assessor must also make an estimate of the true cash value of all the personal property of each person, and set the same down on the assessment roll, opposite the name of such person.

Board of Review.—The functions of this board are to revise and correct the assessment roll as prepared by the supervisor, so that it may conform in all respects to the requirements of the law. The board is composed of the supervisor and two electors of the township, chosen at the annual township meeting.

The board of review of each township holds two meetings in the month of May in each year. At the first of these meetings, it examines the assessment roll and makes such

changes as appear to be necessary, by adding the names of persons or the description of property omitted by the supervisor, and by correcting all errors that may be discovered. The board also fixes a value upon the various items of real and personal property, and enters the valuation so determined in a separate column of the assessment roll.

At the second meeting, the board is required to hear the complaints of all persons who consider themselves unjustly treated in respect to the valuation of their property. These complaints must be carefully investigated and the assessment roll corrected so that no injustice is done to individuals. In cities, similar provisions exist for reviewing the assessment roll by such officers as may be designated by the city charter. For example, in Detroit the common council acts as a board of review.

Computing the Tax.—After the amount required to be raised by taxation for state, county and municipal purposes has been determined in each township and assessment district, it then becomes necessary to apportion the same among the different persons owning taxable property.

This is done by the supervisor in townships and by the assessing officer in cities and villages, and the amount to be paid by each person is entered upon the assessment roll.*

When the assessment roll has thus been completed, the supervisor delivers a copy of it to the treasurer of the township, or to the collector of the city or village, together with an order, directing the collecting officer to proceed to collect the taxes as therein set forth. The copy of the roll and the warrant for collection is delivered in the month of November.

* Nearly all school arithmetics contain an explanation of the method of computing taxes.

Collection of Taxes.—Each collector, upon receiving the tax roll, proceeds to collect the taxes therein listed. Taxpayers are allowed until the tenth of January in which to make voluntary payment of their taxes. After that date, active measures are taken to collect the taxes, and for that purpose the collecting officer must call upon each person residing in his township or district, and demand payment of the taxes charged against him. In case the taxpayer is a non-resident, this demand is made by mail.

In case of non-payment, it is then the duty of the collector to levy upon and sell the property of the delinquent taxpayer, and thus collect the debt due to the public.

Delinquent Taxes.—If the collecting officer is unable to collect any of the taxes assessed on real property, he makes a statement of the same and delivers it to the county treasurer. All such statements so delivered to the county treasurer are certified by him to the auditor-general on or before the first day of May next ensuing. The unpaid taxes included in these statements are termed *delinquent*.

It then becomes the duty of the auditor-general to institute proceedings in the circuit court of the county for the sale of the land against which the delinquent taxes are charged. These proceedings result in a decree of the court, directing that the land be sold and the proceeds applied to the payment of the delinquent tax. This sale is conducted by the county treasurer, and is commenced on the first Tuesday of May in each year.

After the real estate has been sold for non-payment of taxes, the county treasurer executes and delivers to the purchaser a certificate of purchase, which describes the property sold and states the date of the sale, the amount of unpaid taxes on the property, and other details. The owner of the property sold is allowed one year in which to re-

deem from the sale, by paying to the county treasurer the amount of the taxes for which the land was sold, together with interest, expenses of the sale, and the penalties imposed by law in such cases. If the owner does not redeem within one year, then the holder of the certificate of purchase is entitled to receive from the auditor-general a tax deed, which conveys to him an absolute title to the property sold.

Eminent Domain.—There is another method by which the government sometimes takes possession of the property of individuals and uses the same for public purposes. This is done by the exercise of the right of eminent domain, by which is meant the right of the government to take possession of and use property for the benefit of the public, which is greater than the right of the individual citizen to hold the property for his own private use. This power of the government is exercised so frequently that a general knowledge of the subject should be possessed by every citizen, and, therefore, a very common instance will be taken as an illustration.

Taking Property.—It is the duty of the government of a city or village to lay out and open such streets and alleys as may be required for the convenience of the public. The contemplated street must necessarily cross the land of one or more citizens, and sometimes the property owner is compelled to move his buildings from the ground to be so occupied. This is a damage to the owner of the property, because his land is taken from him and used as a street and perhaps he has been obliged to tear down or remove expensive structures. Therefore, the law compels the government in such a case to pay to the property owner the amount of the damage incurred.

Compensation.—The rights of citizens in all cases of this

kind are secured by the constitution, which provides that private property shall not be taken or damaged for public use without just compensation. Further, the laws of the State indicate the method to be followed in ascertaining the amount of damage to be paid to citizens in such cases. The city is obliged to file a petition in the proper court, setting forth a description of the property which it is proposed to take, the purpose for which it is to be taken, the name or names of the owners, and asking that the compensation to be paid to the owner may be determined by the court.

This question is submitted to a jury of twelve freeholders, or to three commissioners, either method being permitted by law. The amount awarded by the jury must be paid by the government to the owner of the property before it can use the land for the purpose proposed.

Taxation and Eminent Domain Contrasted.—Thus the exercise of the right of eminent domain is similar to the exercise of the power of taxation, in that private property is taken for public purposes in both cases, and in both cases compensation is given to the owner. But there are marked differences to be observed with reference to these subjects. The right of eminent domain is exercised not only by the different kinds of government under which we live, but also by certain public corporations, such as railroads, and telegraph and bridge companies, while the power of taxation is exercised by the government alone. Again, the right of eminent domain is exercised only at certain times and in certain cases, while taxation is enforced at all times and affects all property owners.

There is also a difference in the kind of compensation that the citizen receives. When his property is taken under the right of eminent domain he is paid for it in money, but

when it is taken by taxation the citizen gets his pay by receiving police and fire protection, the advantages of public schools and all other benefits that he derives from the government under which he lives.

CHAPTER XXIV.

THE RIGHTS AND DUTIES OF CITIZENS.

The consideration given in the preceding chapters to the political institutions of our country and State will fail in its purpose if it does not impress us with the magnitude and number of the rights, privileges and immunities enjoyed by American citizens, as well as the serious character of the obligations imposed upon them.

In concluding our study, we shall summarize briefly the more important of these rights and duties. An exhaustive statement of these topics involves a detailed study of our statute books, because every provision of the national and State constitutions, as well as every law that has been enacted, is designed to protect citizens in the enjoyment of some right, and the possession of a right always implies the existence of a duty on the part of its possessor.

The rights of a citizen of the United States may be divided into two classes—namely, those *civil* rights which are enjoyed by all citizens alike, regardless of age or sex, and those *political* rights which are possessed by citizens having certain qualifications.

It was the special aim and object of the founders of our government to protect the civil rights of citizens. To this end we find it enunciated in the Declaration of Independence that among the inalienable rights of men are those of life, liberty and the pursuit of happiness, and that governments are instituted to secure these rights. The study of

our national Constitution also shows that its framers zealously guarded and protected these rights. This is apparent when we recall that, after the instrument had been completed and signed by the members of the constitutional convention, there was still a lingering fear that the document had not been sufficiently explicit in these particulars, and that to remove all possible doubt the first ten amendments were adopted at the earliest opportunity. To still further protect citizens in the enjoyment of their civil and political rights the last three amendments were enacted.

In a similar manner, the constitution of Michigan shows with what solicitude and care these rights have been guarded by that instrument.

Rights of Citizens.—*Personal Security.*—Every citizen has the right of personal security—that is, to be protected from personal injury, either to his body, health or reputation. To this end, a large portion of our laws have been framed, and in their enforcement many public officers are employed. For the protection of citizens from actual bodily harm and violence, sheriffs and policemen perform their duties, and, in case their assistance cannot be had, the citizen is given the right to defend himself. The public health is guarded by numerous laws and ordinances on sanitary subjects, and great care is taken to prevent the spread of contagious diseases. Lastly, the laws for the punishment of slander and libel protect the reputations of citizens.

Property.—This is one of those absolute civil rights of which the citizen cannot be deprived. It means that every one has the right to acquire, own and use property, and that, if necessary, the entire power of the government will be exerted to prevent an individual from being deprived unlawfully of his property. No man's property can be taken from him by another except by due process of law,

and if a citizen faithfully fulfills his obligations, legal processes will not be invoked against him.

Personal Liberty.—The existence of this right is recognized by numerous paragraphs of the constitution. By virtue of it a citizen is free to travel and live where he pleases and to engage in such lawful occupation as he deems best. In ancient times a ruler could deprive a citizen of his personal liberty at will, and therefore our English ancestors devised a remedy for this evil, known as the writ of *habeas corpus*. It has been in use in England from a period of remote antiquity, for personal liberty has always been asserted by the English law from its earliest ages. The principle was declared in the most solemn manner in Magna Charta, but the benefits of the writ were frequently avoided by time-serving judges until the year 1679, when the *habeas corpus* act was passed by the English Parliament.

The *habeas corpus* act has been substantially incorporated into the laws of every State in the Union, and the right to the writ has been secured by the constitutions of the United States and of the State of Michigan, both of which provide that the privilege shall not be suspended, except when the public safety requires it.

The writ of *habeas corpus* is a document issued by order of court upon the application of any person who is unlawfully deprived of his liberty. It commands the person having in his custody the applicant for the writ to bring him before the court to be dealt with according to the law. If the judge finds that the applicant for the writ has been unlawfully deprived of his liberty he discharges him from custody at once. If, on the other hand, it is found that the confinement is lawful, the prisoner is remanded to the cus-

tody of the person producing him, to await the further action of the law.

It is impossible to evade the provisions of the *habeas corpus* act, and personal liberty will be safe in Michigan as long as this law remains in force.

Freedom of Conscience.—The right to perfect freedom in all matters of religious worship and profession is one of the fundamental principles of our government. To secure this freedom, our ancestors left their homes in Europe and settled in a wilderness. The constitution of Michigan declares that this right shall forever be guaranteed and protected, and that no person shall ever be denied any civil or political right by reason of his religious belief.

So firmly has this principle become established in our institutions and so fully do we recognize its existence that we scarcely realize how many years of struggle, what sacrifice of life and expenditure of money its establishment has cost. The history of almost every nation shows that the denial of this right has been the source of a large part of the cruelty and warfare from which mankind has suffered.

Freedom of Speech and of the Press.—Every person is at liberty to freely speak and write and publish his views upon all subjects, but is responsible to any one injured by the abuse of that liberty. Absolute freedom of speech and discussion, especially with reference to public matters, is essential to the welfare and perpetuity of the principles of popular government, because by the free interchange of opinion among people sound views are developed and will generally prevail. In the exercise of this right care must be taken that the reputation or business of a citizen is not injured by the circulation of false statements. The malicious utterance of such statements is called slander, and

the publication of them is libel, both of which are punished by severe penalties.

Protection from Unjust Laws.—Tyrannical governments in all ages have resorted to the expedient of enacting oppressive laws, so that their unjust acts might be defended by the plea that the laws must be enforced. At other times the operation of just and reasonable laws has been suspended at the will of the sovereign, regardless of the rights of the people. Acts such as these were charged against the King of Great Britain by the Declaration of Independence. To insure the people against abuses of this kind the constitution provides: That no *ex post facto* law, or law impairing the obligation of contracts, shall be enacted; that all penalties shall be proportioned to the nature of the offense, and no conviction shall work corruption of blood or forfeiture of estate.

The first of these provisions protects the people from any legislative act having a retroactive effect. An *ex post facto* law is one which establishes or increases the penalty of an act already committed. For example, forgery is a crime punished by imprisonment in the penitentiary, but if the legislature should enact a law condemning to death all persons who have been convicted of forgery during the last two years, such a law would be *ex post facto* and therefore unconstitutional and void.

Any law which destroys or impairs the validity of a contract is also contrary to the constitution and void, because when citizens, relying upon existing laws, enter into an agreement, they acquire rights in the subject matter of the agreement. In such a case it would be manifestly unjust for the legislature to damage or destroy those rights by passing a law which would impair in any way the obligations created by the contract.

The second of these constitutional provisions protects citizens from suffering excessive penalties for comparatively small crimes or misdemeanors. In some despotic governments the penalty of death is imposed for quite a variety of offenses, but under our more humane laws it is inflicted only in the case of a conviction for murder.

The same provision of our State constitution forbids a kind of punishment which in former times was inflicted frequently, particularly in cases of treason, whereby the person convicted not only suffered the severest penalty, but also forfeited all his property to the government, and his blood was declared corrupted, so that he became incapable of receiving or transmitting any inheritance. Such a punishment was inflicted by legislative or judicial act, called a Bill of Attainder, or simply an Attainder. It had the effect of punishing children and innocent persons for the crimes of their ancestors. Attainders have been abolished in England and are forbidden by the Constitutions of the United States and of the State of Michigan.

The examples which have been given illustrate what is meant by the civil rights of a citizen. His political rights are just as highly prized and important, but not nearly so numerous.

Suffrage.—This is the most important political right possessed by citizens. The origin of the word suffrage is somewhat in doubt, but its meaning is familiar to every person. The right of suffrage is the right to vote—that is, to give expression to a choice as to what person shall fill a particular office or as to whether or not a given governmental proposition shall become operative. The right of suffrage is important, because by means of it each person who is entitled to its exercise has a voice in the determination of public questions.

The Right to Hold Office.—It is the right of every American citizen to hold office, provided he has the requisite qualifications established by law. It is also his privilege to aspire to any office which he is qualified to fill. In the preceding pages many offices have been mentioned, and there are many others which have been omitted. The occupants of each of these, from the highest to the lowest, have been chosen from the mass of the people.

The ambition to hold public office is an honorable one, but in its attainment none but honorable methods should be used. It is a great honor to be chosen to fill an office of public trust, and every recipient of such favor should strive to merit it by avoiding selfishness and corruption in the performance of his duties.

The Duties of Citizens.—The duties which all citizens owe to their government should receive their consideration quite as much as the rights which they enjoy, but, unfortunately, this is not always the case. All citizens of this country are fairly zealous in claiming their rights, but when it comes to the performance of their duties they often display an ignorance or negligence which does not speak well for their intelligence or patriotism. These duties are almost as numerous as the rights which have been described, and are also of a civil and political character.

Obedience to the Law.—This topic covers a multitude of matters which might be considered with profit, but we can discuss it only in a general way. It includes all of the duties of citizens. Every person who expects to be protected by the law in the enjoyment of his rights must conform to the conditions which the laws have imposed. If he fails in this respect he is likely to lose some of his rights and to suffer a penalty proportionate to his failure. Laws should be

obeyed by citizens from a sense of duty, and not from fear of punishment.

Any person who obeys the law because he fears the penalty of disobedience is likely to disobey it if he thinks he can escape discovery and punishment. A citizen who is willing to obey the law only in cases where he fears discovery and who is ready to disobey it secretly when he thinks his personal interests will be promoted thereby, is quite as dangerous to the welfare of the community as the professional lawbreaker and marauder. Yet many a so called respectable citizen does this very thing when he is a party to corruption in official conduct or bribery at elections.

The Payment of Taxes.—Although it is perfectly clear to every citizen that the expenses of government must be paid by taxation and that all should contribute for this purpose in proportion to their wealth, yet some men will seek to avoid this duty. In doing so, they resort to many dishonorable practices. They make untrue statements to the assessors as to the amount of their property, especially if their wealth is in such a form that it can be concealed. To ease their consciences in making these statements they temporarily transfer their property just before the first day of April and recover it shortly after that date. They tell the assessors that their property is worth much less than its real value. This is especially the case with reference to personal property, the value of which can be misrepresented with much more safety than in the case of real estate.

People who seek to escape the burden of taxation by methods such as these are generally known as "tax-dodgers." They defraud the government of its just dues and are not good citizens. Any person who is willing to receive the benefits of the government and seeks to avoid paying for what he gets is actuated by principles no better

than those of the professional solicitor of alms or the man who habitually repudiates his honest debts.

Self-Support.—Every citizen should avoid being a burden upon the community, and therefore it is his duty to provide for the support of himself and those dependent upon him. To perform this duty, every one should have some occupation by which he can earn his living and follow it industriously. No self-respecting man is willing to receive his support at the expense of others, and, except in cases of misfortune, an able-bodied person who is a burden upon the community has failed in performing the duties of citizenship.

Taking Part in Public Affairs.—Voting is not only the right and privilege of the citizen, but it is also his duty. The citizen who is qualified to vote and fails to do so is just as responsible for the evils of misgovernment as the man who votes for a dishonest candidate or a pernicious governmental measure.

This duty should be performed intelligently; therefore every citizen should take part in the discussion of public questions and be well informed upon those subjects which pertain to the administration of public affairs. In this country, the people govern themselves. They are the source of all power. Therefore, if the government is bad, the responsibility must rest with the people who have voted for improper measures or unworthy candidates, or both.

The qualified voter who neglects to perform the duty of voting should not complain if dishonest officials plunder the public treasury, for he did nothing to prevent it. The busy citizen who cannot find time to attend primary elections, or political conventions, should not complain of unworthy candidates, because he has been willing to let

others do the work of nominating them, instead of participating in the matter himself.

There are many other duties which we might mention, as that of holding public office when the welfare of the community will be promoted thereby, the duty of public service, both in peace and war, and the duty of cultivating that public spirit which places the good of the state or nation above personal profit and ambition; but all of these have been suggested by what has been said, and the intelligent and patriotic citizen will have no difficulty in discovering where his duty lies. Duty and conscience should be the guides in civil and political life, and those who follow and obey are good citizens.

THE END.

APPENDIX "A."

CONSTITUTION OF THE UNITED STATES.

September 17, 1787.

PREAMBLE.—We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the United States of America.

ARTICLE I.

1. All legislative powers herein granted shall be vested in a congress of the United States, which shall consist of a senate and house of representatives.

2. *First.* The house of representatives shall be composed of members chosen every second year, by the people of the several states; and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

Second. No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

Third. Representatives and direct taxes shall be apportioned among the several states which may be included within this union, according to their respective numbers, which shall be determined

by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every 30,000, but each state shall have at least one representative; and until such enumeration shall be made, the state of *New Hampshire* shall be entitled to choose three; *Massachusetts*, eight; *Rhode Island* and *Providence Plantations*, one; *Connecticut*, five; *New York*, six; *New Jersey*, four; *Pennsylvania*, eight; *Delaware*, one; *Maryland*, six; *Virginia*, ten; *North Carolina*, five; *South Carolina*, five, and *Georgia*, three.—See 14th Amendment.

Fourth. When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

Fifth. The house of representatives shall choose their speaker and other officers, and shall have the sole power of impeachment.

3. *First.* The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years; and each senator shall have one vote.

Second. Immediately after they shall be assembled in consequence of the first election, they shall be divided, as equally as may be, into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year; of the second class, at the expiration of the fourth year; and of the third class, at the expiration of the sixth year, so that one third may be chosen every second year; and if vacancies happen by resignation or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

Third. No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

Fourth. The vice-president of the United States shall be president of the senate; but shall have no vote, unless they be equally divided.

Fifth. The senate shall choose their other officers, and also a president *pro tempore* in the absence of the vice-president, or when he shall exercise the office of president of the United States.

Sixth. The senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside; and no person shall be convicted without the concurrence of two thirds of the members present.

Seventh. Judgment, in cases of impeachment, shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment and punishment, according to law.

4. *First.* The times, places and manner of holding elections for senators and representatives shall be prescribed in each state by the legislature thereof; but the congress may, at any time, by law, make or alter such regulations, except as to the places of choosing senators.

Second. The congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall, by law, appoint a different day.

5. *First.* Each house shall be the judge of the elections, returns and qualifications of its own members; and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each house may provide.

Second. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

Third. Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may, in their judgment, require secrecy; and the yeas and nays of the members of either house, on any question, shall, at the desire of one-fifth of those present, be entered on the journal.

Fourth. Neither house, during the session of congress, shall, without the consent of the other, adjourn for more than three days,

nor to any other place than that in which the two houses shall be sitting.

6. *First.* The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall, in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to or returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

Second. No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office.

7. *First.* All bills for raising a revenue shall originate in the house of representatives; but the senate may propose or concur with amendments, as on other bills.

Second. Every bill, which shall have passed the house of representatives and the senate, shall, before it becomes a law, be presented to the president of the United States; if he approves, he shall sign it; but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays; and the names of the persons voting for and against the bill, shall be entered on the journal of each house respectively. If any bill shall not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the congress, by their adjournment, prevent its return; in which case, it shall not be a law.

Third. Every order, resolution or vote, to which the concurrence of the senate and house of representatives may be necessary (ex-

cept on a question of adjournment), shall be presented to the president of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

8. The congress shall have power—

First. To lay and collect taxes, duties, imposts and excises, to pay the debts, and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States:

Second. To borrow money on the credit of the United States:

Third. To regulate commerce with foreign nations, and among the several states, and with the Indian tribes:

Fourth. To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States:

Fifth. To coin money, regulate the value thereof, and of foreign coin, and to fix the standard of weights and measures:

Sixth. To provide for the punishment of counterfeiting the securities and current coin of the United States:

Seventh. To establish post offices and post roads:

Eighth. To promote the progress of science and useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries:

Ninth. To constitute tribunals inferior to the supreme court: To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations:

Tenth. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water:

Eleventh. To raise and support armies; but no appropriation of money to that use shall be for a longer term than two years:

Twelfth. To provide and maintain a navy:

Thirteenth. To make rules for the government and regulation of the land and naval forces:

Fourteenth. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions:

Fifteenth. To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed

house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the house of representatives shall immediately choose, by ballot, one of them for president; and if no person have a majority, then from the five highest on the list the said house shall, in like manner, choose the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one vote: a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case after the choice of the president, the person having the greatest number of votes of the electors shall be the vice-president. But if there should remain two or more who have equal votes, the senate shall choose from them, by ballot, the vice-president. [The foregoing provisions were changed by the 12th Amendment.

Fourth. The congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

Fifth. No person except a natural born citizen, or a citizen of the United States at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

Sixth. In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice-president, and the congress may, by law, provide for the case of removal, death, resignation, or inability, both of the president and vice-president, declaring what officer shall then act as president, and such officer shall act accordingly, until the disability be removed, or a president shall be elected.

Seventh. The president shall, at stated times, receive for his services a compensation, which shall neither be increased or diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States or any of them.

Eighth. Before he enters on the execution of his office he shall take the following oath or affirmation:

I do solemnly swear (or affirm) that I will faithfully execute the office of president of the United States, and will, to the best of my ability, preserve, protect and defend the constitution of the United States.

2. *First.* The president shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States. He may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons, for offenses against the United States, except in cases of impeachment.

Second. He shall have power, by and with the advice and consent of the senate, to make treaties, provided two thirds of the senators present concur; and he shall nominate, and, by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law. But the congress may, by law, vest the appointment of such inferior officers, as they shall think proper, in the president alone, in the courts of law, or in the heads of departments.

Third. The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions, which shall expire at the end of their next session.

3. He shall, from time to time, give to the congress information of the state of the Union; and recommend to their consideration such measures as he shall judge necessary and expedient. He may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper. He shall receive ambassadors and other public ministers. He shall take care that the laws be faithfully executed; and shall commission all officers of the United States.

4. The president, vice-president, and all civil officers of the United States, shall be removed from office, on impeachment for

and conviction of treason, bribery, or other high crimes and misdemeanors.

ARTICLE III.

1. The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the congress may, from time to time, ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior; and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

2. *First.* The judicial power shall extend to all cases, in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases, affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states; between a state and citizens of another state; between citizens of different states; between citizens of the same state, claiming lands under grants of different states; and between a state or the citizens thereof, and foreign states, citizens or subjects.

Second. In all cases, affecting ambassadors, other public ministers, and consuls, and those in which a state shall be a party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the congress shall make.

Third. The trial of all crimes, except in cases of impeachment, shall be by jury; and such trials shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the congress may by law have directed.

3. *First.* Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

Second. The congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attainted.

ARTICLE IV.

1. Full faith and credit shall be given, in each state, to the public acts, records and judicial proceedings of every other state. And the congress may, by general laws, prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

2. *First.* The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

Second. A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

Third. No person held to service or labor in one state under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor; but shall be delivered up on claim of the party to whom such service or labor may be due.

3. *First.* New states may be admitted by the congress of this Union; but no new state shall be formed or erected within the jurisdiction of any other state, nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned, as well as of the congress.

Second. The congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States or of any particular state.

4. The United States shall guarantee to every state in this Union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the

executive (when the legislature cannot be convened), against domestic violence.

ARTICLE V.

The congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution; or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the congress: *Provided*, that no amendment which may be made prior to the year one thousand eight hundred and eight, shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

ARTICLE VI.

1. *First.* All debts contracted, and engagements entered into, before the adoption of this constitution, shall be as valid against the United States, under this constitution, as under the confederation.

Second. This constitution and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made under authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby; anything in the constitution or laws of any state to the contrary notwithstanding.

Third. The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound, by oath or affirmation, to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII.

The ratification of the conventions of nine states shall be suffi-

cient for the establishment of this constitution between the states so ratifying the same.

Done in convention, by the unanimous consent of the states present, the seventeenth day of September, in the year of our Lord one thousand seven hundred and eighty-seven, and of the independence of the United States of America the twelfth.

AMENDMENTS TO THE CONSTITUTION.

I. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

II. A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

III. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

IV. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

V. No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled, in any criminal case, to be a witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use without just compensation.

VI. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be con-

fronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

VII. In suits at common law, where the value in controversy shall exceed \$20, the right of trial by jury shall be preserved; and no fact tried by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

VIII. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

IX. The enumeration, in the constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

X. The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

XI. The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

XII. 1. The electors shall meet in their respective states and vote by ballot for president and vice-president, one of whom at least shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice-president; and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice-president, and of the number of votes for each, which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate; the president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for president shall be the president, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president. But in choosing the president, the votes shall be taken by states, the rep-

resentation from each state having one vote: a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the house of representatives shall not choose a president whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice-president shall act as president, as in the case of the death or other constitutional disability of the president.

2. The person having the greatest number of votes as vice-president, shall be the vice-president, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list the senate shall choose a vice-president. A quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice.

3. But no person constitutionally ineligible to the office of president shall be eligible to that of vice-president of the United States.

XIII. 1. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

2. Congress shall have power to enforce this article by appropriate legislation.

XIV. 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any state deprive any person of life, liberty or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

2. Representatives shall be apportioned among the several states, according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for president and vice-president of the United States, representatives in congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state being 21 years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other

crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens 21 years of age in such state.

3. No person shall be a senator or representative in congress, or elector of president and vice-president, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath as a member of congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But congress may, by a vote of two-thirds of each house, remove such disability.

4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

5. The congress shall have power to enforce, by appropriate legislation, the provisions of this article.

XV. 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or any state on account of race, color or previous condition of servitude.

2. The congress shall have power to enforce this article by appropriate legislation.

APPENDIX "B."

The People of the State of Michigan do Ordain this Constitution:

ARTICLE I.

BOUNDARIES.

The State of Michigan consists of and has jurisdiction over the territory embraced within the following boundaries, to wit: Commencing at a point on the eastern boundary line of the State of Indiana, where a direct line drawn from the southern extremity of Lake Michigan to the most northerly cape of the Maumee Bay shall intersect the same, said point being the northwest corner of the State of Ohio, as established by act of Congress, entitled "An act to establish the northern boundary line of the State of Ohio, and to provide for the admission of the State of Michigan into the Union upon the conditions therein expressed," approved June fifteenth, one thousand eight hundred and thirty-six; thence with the said boundary line of the State of Ohio till it intersects the boundary line between the United States and Canada in Lake Erie; thence with said boundary line between the United States and Canada through the Detroit River, Lake Huron, and Lake Superior, to a point where the said line last touches Lake Superior; thence in a direct line through Lake Superior to the mouth of the Montreal River; thence through the middle of the main channel of the said river Montreal to the head waters thereof; thence in a direct line to the center of the channel between Middle and South Islands, in the Lake of the Desert; thence in a direct line to the southern shore of Lake Brule; thence along said southern shore, and down the river Brule to the main channel of the Menominee River; thence down the center of the main

channe' of the same to the center of the most usual ship channel of the Green Bay of Lake Michigan; thence through the center of the most usual ship channel of the said bay to the middle of Lake Michigan; thence through the middle of Lake Michigan to the northern boundary of the State of Indiana, as that line was established by the act of Congress of the nineteenth of April, eighteen hundred and sixteen; thence due east with the north boundary line of the said State of Indiana to the northeast corner thereof; and thence south with the eastern boundary line of Indiana to the place of beginning.

ARTICLE II.

SEAT OF GOVERNMENT.

SECTION 1. The Seat of Government shall be at Lansing, where it is now established.

ARTICLE III.

DIVISIONS OF THE POWERS OF GOVERNMENT.

SECTION 1. The powers of Government are divided into three departments: the Legislative, Executive, and Judicial.

SEC. 2. No person belonging to one department shall exercise the powers properly belonging to another, except in the cases expressly provided in this Constitution.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

SECTION 1. The Legislative power is vested in a Senate and House of Representatives.

SEC. 2. The Senate shall consist of thirty-two members. Senators shall be elected for two years, and by single districts. Such districts shall be numbered from one to thirty-two, inclusive; each of which shall choose one Senator. No county shall be divided in the formation of Senate districts, except such county shall be equitably entitled to two or more Senators.

SEC. 3. The House of Representatives shall consist of not less than sixty-four, nor more than one hundred, members. Representa-

tives shall be chosen for two years, and by single districts. Each Representative district shall contain, as nearly as may be, an equal number of inhabitants, exclusive of persons of Indian descent who are not civilized, or are members of any tribe, and shall consist of convenient and contiguous territory; but no township or city shall be divided in the formation of a Representative district. When any township or city shall contain a population which entitles it to more than one Representative, then such township or city shall elect, by general ticket, the number of Representatives to which it is entitled. Each county hereafter organized, with such territory as may be attached thereto, shall be entitled to a separate Representative, when it has attained a population equal to a moiety of the ratio of representation. In every county entitled to more than one Representative, the board of supervisors shall assemble at such time and place as the Legislature shall prescribe, and divide the same into Representative districts equal to the number of Representatives to which such county is entitled by law, and shall cause to be filed in the offices of the Secretary of State and clerk of such county a description of such Representative districts, specifying the number of each district and population thereof, according to the last preceding enumeration.

SEC. 4. The Legislature shall provide by law for an enumeration of the inhabitants in the year eighteen hundred and fifty-four, and every ten years thereafter; and at the first session after each enumeration so made, and also at the first session after each enumeration by the authority of the United States, the Legislature shall rearrange the Senate districts and apportion anew the Representatives among the counties and districts, according to the number of inhabitants, exclusive of persons of Indian descent who are not civilized or are members of any tribe. Each apportionment, and the division into Representative districts by any board of supervisors, shall remain unaltered until the return of another enumeration.

SEC. 5. Senators and Representatives shall be citizens of the United States, and qualified electors in the respective counties and districts which they represent. A removal from their respective counties or districts shall be deemed a vacation of their office.

SEC. 6. No person holding any office under the United States, or any county office, except notaries public, officers of the militia, and

officers elected by townships, shall be eligible to or have a seat in either house of the Legislature; and all votes given for any such persons shall be void.

SEC. 7. Senators and Representatives shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest. They shall not be subject to any civil process during the session of the Legislature, or for fifteen days next before the commencement and after the termination of each session. They shall not be questioned in any other place for any speech in either house.

SEC. 8. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and compel the attendance of absent members, in such manner and under such penalties as each house may prescribe.

SEC. 9. Each house shall choose its own officers, determine the rules of its proceedings, and judge of the qualifications, elections, and returns of its members; and may, with the concurrence of two-thirds of all the members elected, expel a member. No member shall be expelled a second time for the same cause, nor for any cause known to his constituents antecedent to his election. The reason for such expulsion shall be entered upon the journal, with the names of the members voting on the question.

SEC. 10. Each house shall keep a journal of its proceedings, and publish the same, except such parts as may require secrecy. The yeas and nays of the members of either house, on any question, shall be entered on the journal at the request of one-fifth of the members elected. Any member of either house may dissent from and protest against any act, proceeding, or resolution which he may deem injurious to any person or the public, and have the reason of his dissent entered on the journal.

SEC. 11. In all elections by either house, or in joint convention, the votes shall be given *viva voce*. All votes or nominations to the Senate shall be taken by yeas and nays, and published with the journal of its proceedings.

SEC. 12. The doors of each house shall be open, unless the public welfare requires secrecy. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than where the Legislature may then be in session.

SEC. 13. Bills may originate in either house of the Legislature.

SEC. 14. Every bill and concurrent resolution, except of adjournment, passed by the Legislature shall be presented to the Governor before it becomes a law. If he approve, he shall sign it; but if not, he shall return it with his objections to the house in which it originated, which shall enter the objections at large upon their journal, and reconsider it. On such reconsideration, if two-thirds of the members elected agree to pass the bill, it shall be sent with the objections to the other house, by which it shall be reconsidered. If approved by two-thirds of the members elected to that house, it shall become a law. In such case the vote of both houses shall be determined by yeas and nays; and the names of the members voting for and against the bill shall be entered on the journals of each house respectively. If any bill be not returned by the Governor within ten days, Sundays excepted, after it has been presented to him, the same shall become a law, in like manner as if he had signed it, unless the Legislature, by their adjournment, prevent its return; in which case it shall not become a law. The Governor may approve, sign, and file in the office of the Secretary of State, within five days after the adjournment of the Legislature, any act passed during the last five days of the session; and the same shall become a law.

SEC. 15. The compensation of the members of the Legislature shall be three dollars per day for actual attendance, and when absent on account of sickness, but the Legislature may allow extra compensation to the members from the territory of the Upper Peninsula, not exceeding two dollars per day during a session. When convened in extra session, their compensation shall be three dollars a day for the first twenty days, and nothing thereafter; and they shall legislate on no other subjects than those expressly stated in the Governor's proclamation, or submitted to them by special message. They shall be entitled to ten cents and no more for every mile actually traveled in going to and returning from the place of meeting, on the usually traveled route; and for stationery and newspapers, not exceeding five dollars for each member during any session. Each member shall be entitled to one copy of the laws, journals, and documents of the Legislature of which he was a member; but shall not receive, at the expense of the State, books, newspapers, or other perquisites of office, not expressly authorized by this Constitution.

SEC. 16. The Legislature may provide by law for the payment of

postage on all mailable matter received by its members and officers during the sessions of the Legislature, but not on any sent or mailed by them.

SEC. 17. The President of the Senate and the Speaker of the House of Representatives shall be entitled to the same per diem compensation and mileage as members of the Legislature, and no more.

SEC. 18. No person elected a member of the Legislature shall receive any civil appointment within this State, or to the Senate of the United States, from the Governor, the Governor and Senate, from the Legislature, or any other State authority, during the term for which he is elected. All such appointments, and all votes given for any person so elected for any such office or appointment shall be void. No member of the Legislature shall be interested, directly or indirectly, in any contract with the State, or any county thereof, authorized by any law passed during the time for which he is elected, nor for one year thereafter.

SEC. 19. Every bill and joint resolution shall be read three times in each house, before the final passage thereof. No bill or joint resolution shall become a law without the concurrence of a majority of all the members elected to each house. On the final passage of all bills, the vote shall be by yeas and nays, and entered on the journal.

SEC. 20. No law shall embrace more than one object, which shall be expressed in its title. No public act shall take effect or be in force until the expiration of ninety days from the end of the session at which the same is passed, unless the Legislature shall otherwise direct by a two-thirds vote of the members elected to each house.

SEC. 21. The Legislature shall not grant nor authorize extra compensation to any public officer, agent, or contractor, after the service has been rendered or the contract entered into.

SEC. 22. The Legislature shall provide by law that the furnishing of fuel and stationery for the use of the State, the printing and binding the laws and journals, all blanks, paper, and printing for the executive departments, and all other printing ordered by the Legislature, shall be let by contract to the lowest bidder or bidders, who shall give adequate and satisfactory security for the performance thereof. The Legislature shall prescribe by law the manner in which the State printing shall be executed, and the accounts rendered

therefor; and shall prohibit all charges for constructive labor. They shall not rescind nor alter such contract, nor release the person or persons taking the same, or his or their sureties, from the performance of any of the conditions of the contract. No member of the Legislature, nor officer of the State, shall be interested directly or indirectly in any such contract.

SEC. 23. The Legislature shall not authorize, by private or special law, the sale or conveyance of any real estate belonging to any person; nor vacate nor alter any road laid out by commissioners of highways, or any street in any city or village, or in any recorded town plat.

SEC. 24. The Legislature may authorize the employment of a chaplain for the State Prison; but no money shall be appropriated for the payment of any religious services in either house of the Legislature.

SEC. 25. No law shall be revised, altered, or amended, by reference to its title only; but the act revised, and the section or sections of the act altered or amended, shall be re-enacted and published at length.

SEC. 26. Divorces shall not be granted by the Legislature.

SEC. 27. The Legislature shall not authorize any lottery, nor permit the sale of lottery tickets.

SEC. 28. No new bill shall be introduced into either house of the Legislature after the first fifty days of a session shall have expired.

SEC. 29. In case of a contested election, the person only shall receive from the State per diem compensation and mileage, who is declared to be entitled to a seat by the house in which the contest takes place.

SEC. 30. No collector, holder, nor disburser of public moneys shall have a seat in the Legislature, or be eligible to any office of trust or profit under this State, until he shall have accounted for and paid over, as provided by law, all sums for which he may be liable.

SEC. 31. The Legislature shall not audit nor allow any private claim or account.

SEC. 32. The Legislature, on the day of final adjournment, shall adjourn at twelve o'clock at noon.

SEC. 33. The Legislature shall meet at the seat of government on the first Wednesday in January, in the year one thousand eight

hundred and sixty-one, and on the first Wednesday of January in every second year thereafter, and at no other place or time, unless as provided in the Constitution of the State, and shall adjourn without day at such time as the Legislature shall fix by concurrent resolution.

SEC. 34. The election of Senators and Representatives, pursuant to the provisions of this Constitution, shall be held on the Tuesday succeeding the first Monday of November, in the year one thousand eight hundred and fifty-two, and on the Tuesday succeeding the first Monday of November of every second year thereafter.

SEC. 35. The Legislature shall not establish a State paper. Every newspaper in the State which shall publish all the general laws of any session within forty days of their passage shall be entitled to receive a sum not exceeding fifteen dollars therefor.

SEC. 36. The Legislature shall provide for the speedy publication of all statute laws of a public nature, and of such judicial decisions as it may deem expedient. All laws and judicial decisions shall be free for publication by any person.

SEC. 37. The Legislature may declare the cases in which any office shall be deemed vacant, and also the manner of filling the vacancy, where no provision is made for that purpose in this Constitution.

SEC. 38. The Legislature may confer upon organized townships, incorporated cities and villages, and upon the board of supervisors of the several counties, such powers of a local, legislative, and administrative character as they may deem proper.

SEC. 39. The Legislature shall pass no law to prevent any person from worshipping Almighty God according to the dictates of his own conscience, or to compel any person to attend, erect, or support any place of religious worship, or to pay tithes, taxes, or other rates for the support of any minister of the gospel or teacher of religion.

SEC. 40. No money shall be appropriated or drawn from the Treasury for the benefit of any religious sect or society, theological or religious seminary, nor shall property belonging to the State be appropriated for any such purposes.

SEC. 41. The Legislature shall not diminish or enlarge the civil or political rights, privileges, and capacities of any person on account of his opinion or belief concerning matters of religion.

SEC. 42. No law shall ever be passed to restrain or abridge the liberty of speech or of the press; but every person may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of such right.

SEC. 43. The Legislature shall pass no bill of attainder, *ex post facto* law, or law impairing the obligation of contracts.

SEC. 44. The privilege of the writ of *habeas corpus* remains, and shall not be suspended by the Legislature, except, in case of rebellion or invasion, the public safety require it.

SEC. 45. The assent of two-thirds of the members elected to each house of the Legislature shall be requisite to every bill appropriating the public money or property for local or private purposes.

SEC. 46. The Legislature may authorize a trial by jury of a less number than twelve men.

SEC. 47. The Legislature shall not pass any act authorizing the grant of license for the sale of ardent spirits or other intoxicating liquors.*

SEC. 48. The style of the laws shall be, "The people of the State of Michigan enact."

SEC. 49. The Legislature may provide for the laying out, construction and maintenance of county and township roads, and may provide that any road heretofore laid out shall be a county or township road. County roads may be maintained at the expense of the county, and township roads at the expense of the township. County roads shall be under the control of a board of commissioners not to exceed five in number, who shall be elected by the people, the number of said commissioners to be fixed by the board of supervisors of the county. For the construction and maintenance of county roads the commissioners may provide for an annual tax not exceeding two dollars upon each one thousand dollars of the assessment roll of the county for the preceding year. No county shall incur any indebtedness or issue any bonds for the construction and maintenance of county roads, except upon a vote of two-thirds of all the supervisors elected, and then to be approved by a majority vote at any general or special election; nor shall any such indebtedness at any time exceed three per cent. of the valuation of the county

* Stricken out by Legislature of 1875. Amendment approved by the people at the general election, 1876.

upon the last preceding assessment roll. The Legislature may modify, change or repeal the powers and duties of the township commissioner of highways and overseer of highways. The Legislature may pass all necessary laws to carry this amendment into effect: *Provided*, that any act or acts passed by the Legislature to carry this amendment into effect shall provide for a county and township system, and the county system shall become operative only in such counties as shall adopt it by a majority vote of the electors of said county, after the said question has been submitted to them by a two-thirds vote of all the members elect of the board of supervisors of such county, at a general or special election called for that purpose.

ARTICLE V.

EXECUTIVE DEPARTMENT.

SECTION 1. The executive power is vested in a Governor, who shall hold his office for two years. A Lieutenant Governor shall be chosen for the same term.

SEC. 2. No person shall be eligible to the office of Governor or Lieutenant Governor, who has not been five years a citizen of the United States, and a resident of this State two years next preceding his election; nor shall any person be eligible to either office who has not attained the age of thirty years.

SEC. 3. The Governor and Lieutenant Governor shall be elected at the times and places of choosing the members of the Legislature. The person having the highest number of votes for Governor or Lieutenant Governor shall be elected. In case two or more persons shall have an equal and the highest number of votes for Governor or Lieutenant Governor, the Legislature shall, by joint vote, choose one of such persons.

SEC. 4. The Governor shall be Commander-in-Chief of the military and naval forces, and may call out such forces to execute the laws, to suppress insurrections, and to repel invasions.

SEC. 5. He shall transact all necessary business with officers of government, and may require information, in writing, from the officers of the executive department, upon any subject relating to the duties of their respective offices.

SEC. 6. He shall take care that the laws be faithfully executed.

SEC. 7. He may convene the Legislature on extraordinary occasions.

SEC. 8. He shall give to the Legislature, and, at the close of his official term, to the next Legislature, information by message of the condition of the State, and recommend such measures to them as he shall deem expedient.

SEC. 9. He may convene the Legislature at some other place, when the seat of government becomes dangerous from disease or a common enemy.

SEC. 10. He shall issue writs of election to fill such vacancies as occur in the Senate or House of Representatives.

SEC. 11. He may grant reprieves, commutations, and pardons after convictions, for all offenses except treason and cases of impeachment, upon such conditions, and with such restrictions and limitations, as he may think proper, subject to regulations provided by law, relative to the manner of applying for pardons. Upon conviction for treason, he may suspend the execution of the sentence until the case shall be reported to the Legislature at its next session, when the Legislature shall either pardon, or commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall communicate to the Legislature at each session information of each case of reprieve, commutation, or pardon granted, and the reasons therefor.

SEC. 12. In case of the impeachment of the Governor, his removal from office, death, inability, resignation, or absence from the State, the powers and duties of the office shall devolve upon the Lieutenant Governor, for the residue of the term, or until the disability ceases. When the Governor shall be out of the State in time of war, at the head of a military force thereof, he shall continue Commander-in-Chief of all the military force of the State.

SEC. 13. During a vacancy in the office of Governor, if the Lieutenant Governor die, resign, or be impeached, displaced, be incapable of performing the duties of his office, or absent from the State, the President *pro tempore* of the Senate shall act as Governor, until the vacancy shall be filled, or the disability cease.

SEC. 14. The Lieutenant Governor shall, by virtue of his office, be President of the Senate. In committee of the whole he may

debate all questions; and when there is an equal division, he shall give the casting vote.

SEC. 15. No member of Congress, nor any person holding office under the United States, or this State, shall execute the office of Governor.

SEC. 16. No person elected Governor or Lieutenant Governor shall be eligible to any office or appointment from the Legislature, or either house thereof, during the time for which he was elected. All votes for either of them, for any such office, shall be void.

SEC. 17. The Lieutenant [Governor] and President of the Senate *pro tempore*, when performing the duties of Governor, shall receive the same compensation as the Governor.

SEC. 18. All official acts of the Governor, his approval of the laws excepted, shall be authenticated by the great seal of the State, which shall be kept by the Secretary of State.

SEC. 19. All commissions issued to persons holding office under the provisions of this Constitution shall be in the name and by the authority of the people of the State of Michigan, sealed with the great seal of the State, signed by the Governor, and countersigned by the Secretary of State.

ARTICLE VI.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial power is vested in one Supreme Court, in circuit courts, in probate courts, and in justices of the peace. Municipal courts of civil and criminal jurisdiction may be established by the Legislature in cities.

SEC. 2. For the term of six years, and thereafter, until the Legislature otherwise provide, the judges of the several circuit courts shall be Judges of the Supreme Court, four of whom shall constitute a quorum. A concurrence of three shall be necessary to a final decision. After six years the Legislature may provide by law for the organization of a Supreme Court, with the jurisdiction and powers prescribed in this Constitution, to consist of one Chief Justice and three Associate Justices, to be chosen by the electors of the State. Such Supreme Court, when so organized, shall not be changed or discontinued by the Legislature for eight years thereafter. The

Judges thereof shall be so classified that but one of them shall go out of office at the same time. Their term of office shall be eight years.

SEC. 3. The Supreme Court shall have a general superintending control over all inferior courts, and shall have power to issue writs of error, *habeas corpus*, *mandamus*, *quo warranto*, *procedendo*, and other original and remedial writs, and to hear and determine the same. In all other cases it shall have appellate jurisdiction only.

SEC. 4. Four terms of the Supreme Court shall be held annually, at such times and places as may be designated by law.

SEC. 5. The Supreme Court shall by general rules establish, modify and amend the practice in such court and in the circuit courts, and simplify the same. The Legislature shall, as far as practicable, abolish distinctions between law and equity proceedings. The office of master in chancery is prohibited.

SEC. 6. The State shall be divided into judicial circuits; in each of which the electors thereof shall elect one circuit judge, who shall hold his office for the term of six years, and until his successor is elected and qualified. The Legislature may provide for the election of more than one circuit judge in the judicial circuit in which the city of Detroit is or may be situated, and in the judicial circuit in which the county of Saginaw is or may be situated, and in the judicial circuit in which the county of Kent is or may be situated, and the circuit judge or judges of said circuits, in addition to the salary provided by this Constitution, shall receive from their respective counties such additional salary as may from time to time be fixed and determined by the boards of supervisors of said counties. And the board of supervisors of each county in the Upper Peninsula is hereby authorized and empowered to give and pay to the circuit judge of the judicial circuit to which such county is attached such additional salary or compensation as may from time to time be fixed and determined by such board of supervisors. This section, as amended, shall take effect from the time of its adoption.

SEC. 7. The Legislature may alter the limits of circuits, or increase the number of the same. No alteration or increase shall have the effect to remove a judge from office. In every additional circuit established, the judge shall be elected by the electors of such circuit, and his term of office shall continue, as provided in this Constitution for judges of the circuit court.

SEC. 8. The circuit court shall have original jurisdiction in all matters, civil and criminal, not excepted in this Constitution, and not prohibited by law; and appellate jurisdiction from all inferior courts and tribunals, and a supervisory control of the same. They shall also have power to issue writs of *habeas corpus*, *mandamus*, *injunction*, *quo warranto*, *certiorari*, and other writs necessary to carry into effect their orders, judgments, and decrees, and give them a general control over inferior courts and tribunals within their respective jurisdictions, and in all such other cases and matters as the Supreme Court shall by rule prescribe.

SEC. 9. Each of the judges of the circuit courts shall receive a salary, payable quarterly. They shall be ineligible to any other than a judicial office during the term for which they are elected, and for one year thereafter. All votes for any person elected such judge for any office other than judicial, given either by the Legislature or the people, shall be void.

SEC. 10. The Supreme Court may appoint a reporter of its decisions. The decisions of the Supreme Court shall be in writing, and signed by the judges concurring therein. Any judge dissenting therefrom shall give the reasons of such dissent in writing, under his signature. All such opinions shall be filed in the office of the clerk of the Supreme Court. The judges of the circuit court, within their respective jurisdictions, may fill vacancies in the office of county clerk and of prosecuting attorney; but no Judge of the Supreme Court, or circuit court, shall exercise any other power of appointment to public office.

SEC. 11. A circuit court shall be held at least twice in each year in every county organized for judicial purposes, and four times in each year in counties containing ten thousand inhabitants. Judges of the circuit court may hold courts for each other, and shall do so when required by law.

SEC. 12. The clerk of each county organized for judicial purposes shall be the clerk of the circuit court of such county. The Supreme Court shall have power to appoint a clerk for such Supreme Court.

SEC. 13. In each of the counties organized for judicial purposes there shall be a court of probate. The judge of such court shall be elected by the electors of the county in which he resides, and shall hold his office for four years, and until his successor is elected and

qualified. The jurisdiction, powers and duties of such court shall be prescribed by law.

SEC. 14. When a vacancy occurs in the office of Judge of the Supreme, circuit, or probate court, it shall be filled by appointment of the Governor, which shall continue until a successor is elected and qualified. When elected, such successor shall hold his office the residue of the unexpired term.

SEC. 15. The Supreme Court, the circuit and probate courts of each county, shall be courts of record, and shall each have a common seal.

SEC. 16. The Legislature may provide by law for the election of one or more persons in each organized county, who may be vested with judicial powers, not exceeding those of a judge of the circuit court at chambers.

SEC. 17. There shall be not exceeding four justices of the peace in each organized township. They shall be elected by the electors of the townships, and shall hold their offices for four years, and until their successors are elected and qualified. At the first election in any township, they shall be classified as shall be prescribed by law. A justice elected to fill a vacancy shall hold his office for the residue of the unexpired term. The Legislature may increase the number of justices in cities.

SEC. 18. In civil cases, justices of the peace shall have exclusive jurisdiction to the amount of one hundred dollars, and concurrent jurisdiction to the amount of three hundred dollars, which may be increased to five hundred dollars, with such exceptions and restrictions as may be provided by law. They shall also have such criminal jurisdiction, and perform such duties, as shall be prescribed by the Legislature.

SEC. 19. Judges of the Supreme Court, circuit judges, and justices of the peace shall be conservators of the peace within their respective jurisdictions.

SEC. 20. The first election of judges of the circuit courts shall be held on the first Monday in April, one thousand eight hundred and fifty-one, and every sixth year thereafter. Whenever an additional circuit is created, provision shall be made to hold the subsequent election of such additional judge at the regular election herein provided.

SEC. 21. The first election of judges of the probate courts shall be held on the Tuesday succeeding the first Monday of November, one thousand eight hundred and fifty-two, and every fourth year thereafter.

SEC. 22. Whenever a judge shall remove beyond the limits of the jurisdiction for which he was elected, or a justice of the peace from the township in which he was elected, or by a change in the boundaries of such township shall be placed without the same, they shall be deemed to have vacated their respective offices.

SEC. 23. The Legislature may establish courts of conciliation, with such powers and duties as shall be prescribed by law.

SEC. 24. Any suitor in any court of this State shall have the right to prosecute or defend his suit, either in his own proper person, or by an attorney or agent of his choice.

SEC. 25. In all prosecutions for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives and for justifiable ends, the party shall be acquitted. The jury shall have the right to determine the law and the fact.

SEC. 26. The person, houses, papers, and possessions of every person shall be secure from unreasonable searches and seizures. No warrant to search any place or to seize any person or things shall issue without describing them, nor without probable cause, supported by oath or affirmation.

SEC. 27. The right of trial by jury shall remain, but shall be deemed to be waived in all civil cases, unless demanded by one of the parties in such manner as shall be prescribed by law.

SEC. 28. In every criminal prosecution, the accused shall have the right to a speedy and public trial by an impartial jury, which may consist of less than twelve men in all courts not of record; to be informed of the nature of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and have the assistance of counsel for his defense.

SEC. 29. No person, after acquittal upon the merits, shall be tried for the same offense. All persons shall, before conviction, be bailable by sufficient sureties, except for murder and treason, when the proof is evident or the presumption great.

SEC. 30. Treason against the State shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless upon the testimony of two witnesses to the same overt act, or on confession in open court.

SEC. 31. Excessive bail shall not be required; excessive fines shall not be imposed; cruel or unusual punishment shall not be inflicted; nor shall witnesses be unreasonably detained.

SEC. 32. No person shall be compelled, in any criminal case, to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law.

SEC. 33. No person shall be imprisoned for debt arising out of or founded on a contract, express or implied, except in cases of fraud or breach of trust, or of moneys collected by public officers, or in any professional employment. No person shall be imprisoned for a militia fine in time of peace.

SEC. 34. No person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief.

SEC. 35. The style of all process shall be: "In the name of the People of the State of Michigan."

ARTICLE VII.

ELECTIONS.

SECTION 1. In all elections, every male inhabitant of this State, being a citizen of the United States, every male inhabitant residing in this State on the twenty-fourth day of June, eighteen hundred thirty-five, every male inhabitant residing in the State on the first day of January, eighteen hundred fifty, every male inhabitant of foreign birth who, having resided in the State two years and six months prior to the eighth day of November, eighteen hundred ninety-four, and having declared his intention to become a citizen of the United States two years and six months prior to said last named day, and every civilized male inhabitant of Indian descent, a native of the United States and not a member of any tribe, shall be an elector and entitled to vote; but no one shall be an elector or entitled to vote at any election unless he shall be above the age of twenty-one years, and has resided in this State six months

and in the township or ward in which he offers to vote twenty days next preceding such election: *Provided*, that in time of war, insurrection or rebellion no qualified elector in the actual military service of the United States, or of this State, or in the army or navy thereof, shall be deprived of his vote by reason of his absence from the township, ward or state in which he resides, and the Legislature shall have the power, and shall provide the manner in which and the time and place at which such absent electors may vote, and for the canvass and return of their votes to the township or ward election district in which they respectively reside or otherwise.

SEC. 2. All votes shall be given by ballot, except for such township officers as may be authorized by law to be otherwise chosen.

SEC. 3. Every elector, in all cases, except treason, felony, or breach of the peace, shall be privileged from arrest during his attendance at election, and in going to and returning from the same.

SEC. 4. No elector shall be obliged to do military duty on the day of election, except in time of war or public danger; or attend court as a suitor or witness.

SEC. 5. No elector shall be deemed to have gained or lost a residence by reason of his being employed in the service of the United States or of this State; nor while engaged in the navigation of the waters of this State or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse or other asylum at public expense; nor while confined in any public prison, except that honorably discharged soldiers, sailors and marines who have served in the military or naval forces of the United States or of this State, and who reside in soldiers' homes established by the State, may acquire a residence where such home is located.

SEC. 6. Laws may be passed to preserve the purity of elections and guard against abuses of the elective franchise.

SEC. 7. No soldier, seaman, nor marine in the army or navy of the United States shall be deemed a resident of this State in consequence of being stationed in any military or naval place within the same.

SEC. 8. Any inhabitant who may hereafter be engaged in a duel, either as principal or accessory before the fact, shall be disqualified

from holding any office under the Constitution and laws of this State, and shall not be permitted to vote at any election.

ARTICLE VIII.

STATE OFFICERS.

SECTION 1. There shall be elected at each general biennial election, a Secretary of State, a Superintendent of Public Instruction, a State Treasurer, a Commissioner of the Land Office, an Auditor General, and an Attorney General, for the term of two years. They shall keep their offices at the seat of government, and shall perform such duties as may be prescribed by law.

SEC. 2. Their term of office shall commence on the first day of January, one thousand eight hundred and fifty-three, and of every second year thereafter.

SEC. 3. Whenever a vacancy shall occur in any of the State offices, the Governor shall fill the same by appointment, by and with the advice and consent of the Senate, if in session.

SEC. 4. The Secretary of State, State Treasurer, and Commissioner of the State Land Office, shall constitute a Board of State Auditors, to examine and adjust all claims against the State, not otherwise provided for by general law. They shall constitute a Board of State Canvassers, to determine the result of all elections for Governor, Lieutenant Governor, and State officers, and of such other officers as shall by law be referred to them.

SEC. 5. In case two or more persons have an equal and the highest number of votes for any office, as canvassed by the Board of State Canvassers, the Legislature in joint convention shall choose one of said persons to fill such office. When the determination of the Board of State Canvassers is contested, the Legislature in joint convention shall decide which person is elected.

ARTICLE IX.

SALARIES.

SECTION 1. The Governor shall receive an annual salary of four thousand dollars; the judges of the Circuit Court shall each receive an annual salary of two thousand five hundred dollars; the State

Treasurer shall receive an annual salary of one thousand dollars; the Superintendent of Public Instruction shall receive an annual salary of one thousand dollars; the Secretary of State shall receive an annual salary of eight hundred dollars; the Commissioner of the Land Office shall receive an annual salary of eight hundred dollars; the Attorney General shall receive an annual salary of eight hundred dollars. They shall receive no fees or perquisites whatever for the performance of any duties connected with their office. It shall not be competent for the Legislature to increase the salaries herein provided.

ARTICLE X.

COUNTIES.

SECTION 1. Each organized county shall be a body corporate, with such powers and immunities as shall be established by law. All suits and proceedings by or against a county shall be in the name thereof.

SEC. 2. No organized county shall ever be reduced by the organization of new counties to less than sixteen townships, as surveyed by the United States, unless in pursuance of law a majority of electors residing in each county to be affected thereby shall so decide. The Legislature may organize any city into a separate county when it has attained a population of twenty thousand inhabitants, without reference to geographical extent, when a majority of the electors of a county in which such city may be situated, voting thereon, shall be in favor of a separate organization.

SEC. 3. In each organized county there shall be a sheriff, county clerk, a county treasurer, a register of deeds and a prosecuting attorney, chosen by the electors thereof, once in two years, and as often as vacancies shall happen, whose duties and powers shall be prescribed by law. The board of supervisors in any county may unite the offices of county clerk and register of deeds in one office, or disconnect the same.

SEC. 4. The sheriff, county clerk, county treasurer, judge of probate and register of deeds shall hold their offices at the county seat.

SEC. 5. The sheriff shall hold no other office, and shall be incapable of holding the office of sheriff longer than four in any period of six years. He may be required by law to renew his security from

time to time, and in default of giving such security his office shall be deemed vacant. The county shall never be responsible for his acts.

SEC. 6. A board of supervisors, consisting of one from each organized township, shall be established in each county, with such powers as shall be prescribed by law.

SEC. 7. Cities shall have such representation in the board of supervisors of the counties in which they are situated as the Legislature may direct.

SEC. 8. No county seat once established shall be removed until the place to which it is proposed to be removed shall be designated by two-thirds of the board of supervisors of the county and a majority of the electors voting thereon shall have voted in favor of the proposed location, in such manner as shall be prescribed by law.

SEC. 9. The board of supervisors of any county may borrow or raise by tax one thousand dollars, for constructing or repairing public buildings, highways, or bridges; but no greater sum shall be borrowed or raised by tax for such purpose in any one year, unless authorized by a majority of the electors of such county voting thereon.

SEC. 10. The board of supervisors, or in the county of Wayne the board of county auditors, shall have the exclusive power to prescribe and fix the compensation for all services rendered for, and to adjust all claims against their respective counties; and the sum so fixed or defined shall be subject to no appeal.

SEC. 11. The board of supervisors of each organized county may provide for laying out highways, constructing bridges, and organizing townships, under such restrictions and limitations as shall be prescribed by law.

ARTICLE XI.

TOWNSHIPS.

SECTION 1. There shall be elected annually, on the first Monday of April, in each organized township, one supervisor, one township clerk, who shall be *ex-officio* school inspector, one commissioner of highways, one township treasurer, one school inspector, not exceeding four constables, and one overseer of highways for each highway district, whose powers and duties shall be prescribed by law.

SEC. 2. Each organized township shall be a body corporate, with such powers and immunities as shall be prescribed by law. All suits and proceedings by or against a township shall be in the name thereof.

ARTICLE XII.

IMPEACHMENTS AND REMOVALS FROM OFFICE.

SECTION 1. The House of Representatives shall have the sole power of impeaching civil officers for corrupt conduct in office, or for crimes and misdemeanors; but a majority of the members elected shall be necessary to direct an impeachment.

SEC. 2. Every impeachment shall be tried by the Senate. When the Governor or Lieutenant Governor is tried, the Chief Justice of the Supreme Court shall preside. When an impeachment is directed, the Senate shall take an oath or affirmation truly and impartially to try and determine the same according to the evidence. No person shall be convicted without the concurrence of two-thirds of the members elected. Judgment, in cases of impeachment, shall not extend further than removal from office; but the party convicted shall be liable to punishment according to law.

SEC. 3. When an impeachment is directed, the House of Representatives shall elect from their own body three members, whose duty it shall be to prosecute such impeachment. No impeachment shall be tried until the final adjournment of the Legislature, when the Senate shall proceed to try the same.

SEC. 4. No judicial officer shall exercise his office, after an impeachment is directed, until he is acquitted.

SEC. 5. The Governor may make a provisional appointment to fill a vacancy occasioned by the suspension of an officer, until he shall be acquitted, or until after the election and qualification of a successor.

SEC. 6. For reasonable cause, which shall not be sufficient ground for the impeachment of a judge, the Governor shall remove him on a concurrent resolution of two-thirds of the members elected to each house of the Legislature; but the cause for which such removal is required shall be stated at length in such resolution.

SEC. 7. The Legislature shall provide by law for the removal of

any officer elected by a county, township, or school district, in such manner and for such cause as to them shall seem just and proper.

SEC. 8. The Governor shall have power and it shall be his duty, except at such times as the Legislature may be in session, to examine into the condition and administration of any public office, and the acts of any public officer, elective or appointed, to remove from office for gross neglect of duty, or for corrupt conduct in office, or any other misfeasance or malfeasance therein, either of the following State officers, to wit: The Attorney General, State Treasurer, Commissioner of the Land Office, Secretary of State, Auditor General, Superintendent of Public Instruction, or members of the State Board of Education, or any other officer of the State, except legislative and judicial, elective or appointed, and to appoint a successor for the remainder of their respective unexpired term of office, and report the causes of such removal to the Legislature at its next session.

ARTICLE XIII.

EDUCATION.

SECTION 1. The Superintendent of Public Instruction shall have the general supervision of public instruction, and his duties shall be prescribed by law.

SEC. 2. The proceeds from the sales of all lands that have been or hereafter may be granted by the United States to the State, for educational purposes, and the proceeds of all lands or other property given by individuals, or appropriated by the State for like purposes, shall be and remain a perpetual fund, the interest and income of which, together with the rents of all such lands as may remain unsold, shall be inviolably appropriated and annually applied to the specific objects of the original gift, grant, or appropriation.

SEC. 3. All lands, the titles to which shall fail from a defect of heirs, shall escheat to the State; and the interest on the clear proceeds from the sales thereof shall be appropriated exclusively to the support of primary schools.

SEC. 4. The Legislature shall, within five years from the adoption of this Constitution, provide for and establish a system of primary schools, whereby a school shall be kept without charge for tuition, at least three months in each year, in every school district in the

State; and all instruction in said schools shall be conducted in the English language.

SEC. 5. A school shall be maintained in each school district at least three months in each year. Any school district neglecting to maintain such school shall be deprived for the ensuing year of its proportion of the income of the Primary School Fund, and of all funds arising from taxes for the support of schools.

SEC. 6. There shall be elected in the year eighteen hundred and sixty-three, at the time of the election of a Justice of the Supreme Court, eight Regents of the University, two of whom shall hold their office for two years, two for four years, two for six years and two for eight years. They shall enter upon the duties of their office on the first of January next succeeding their election. At every regular election of a Justice of the Supreme Court thereafter, there shall be elected two Regents, whose term of office shall be eight years. When a vacancy shall occur in the office of Regent, it shall be filled by appointment of the Governor. The Regents thus elected shall constitute the Board of Regents of the University of Michigan.

SEC. 7. The Regents of the University, and their successors in office, shall continue to constitute the body corporate known by the name and title of "The Regents of the University of Michigan."

SEC. 8. The Regents of the University shall, at their first annual meeting, or as soon thereafter as may be, elect a President of the University, who shall be *ex-officio* a member of their Board, with the privilege of speaking, but not of voting. He shall preside at the meeting of the Regents, and be the principal executive officer of the University. The Board of Regents shall have the general supervision of the University, and the direction and control of all expenditures from the University Interest Fund.

SEC. 9. There shall be elected at the general election in the year one thousand eight hundred and fifty-two, three members of a State Board of Education, one for two years, one for four years, and one for six years; and at each succeeding biennial election there shall be elected one member of such Board, who shall hold his office for six years. The Superintendent of Public Instruction shall be *ex-officio* a member and Secretary of such Board. The Board shall have the general supervision of the State Normal School, and their duties shall be prescribed by law.

SEC. 10. Institutions for the benefit of those inhabitants who are deaf, dumb, blind, or insane, shall always be fostered and supported.

SEC. 11. The Legislature shall encourage the promotion of intellectual, scientific, and agricultural improvement; and shall, as soon as practicable, provide for the establishment of an Agricultural School. The Legislature may appropriate the twenty-two sections of salt-spring lands now unappropriated, or the money arising from the sale of the same, where such lands have been already sold, and any land which may hereafter be granted or appropriated for such purpose, for the support and maintenance of such school, and may make the same a branch of the University, for instruction in agriculture and the natural sciences connected therewith and place the same under the supervision of the Regents of the University.

SEC. 12. The Legislature shall also provide for the establishment of at least one library in each township and city; and all fines assessed and collected in the several counties and townships for any breach of the penal laws shall be exclusively applied to the support of such libraries, unless otherwise ordered by the township board of any township, or the board of education of any city: *Provided*, that in no case shall such fines be used for other than library or school purposes.

ARTICLE XIV.

FINANCE AND TAXATION.

SECTION 1. All specific State taxes, except those received from the mining companies of the Upper Peninsula, shall be applied in paying the interest upon the Primary School, University, and other educational funds, and the interest and principal of the State debt, in the order herein recited, until the extinguishment of the State debt, other than the amounts due to educational funds, when such specific taxes shall be added to and constitute a part of the Primary School Interest Fund. The Legislature shall provide for an annual tax, sufficient, with other resources, to pay the estimated expenses of the State government, the interest of the State debt, and such deficiency as may occur in the resources.

SEC. 2. The Legislature shall provide by law a sinking fund of at least twenty thousand dollars a year, to commence in eighteen hundred and fifty-two, with compound interest at the rate of six per

cent. per annum, and an annual increase of at least five per cent., to be applied solely to the payment and extinguishment of the principal of the State debt, other than the amounts due to educational funds, and shall be continued until the extinguishment thereof. The unfunded debt shall not be funded or redeemed at a value exceeding that established by law in one thousand eight hundred and forty-eight.

SEC. 3. The State may contract debts to meet deficits in revenue. Such debts shall not in the aggregate at any one time exceed fifty thousand dollars. The moneys so raised shall be applied to the purposes for which they were obtained, or to the payment of the debts so contracted.

SEC. 4. The State may contract debts to repel invasion, suppress insurrection, or defend the State in time of war. The money arising from the contracting of such debts shall be applied to the purposes for which it was raised, or to repay such debts.

SEC. 5. No money shall be paid out of the Treasury, except in pursuance of appropriations made by law.

SEC. 6. The credit of the State shall not be granted to, or in aid of, any person, association, or corporation.

SEC. 7. No scrip, certificate, or other evidence of State indebtedness shall be issued, except for the redemption of stock previously issued, or for such debts as are expressly authorized in this Constitution.

SEC. 8. The State shall not subscribe to, or be interested in, the stock of any company, association, or corporation.

SEC. 9. The State shall not be a party to, or interested in, any work of internal improvement, nor engaged in carrying on any such work, except in the expenditure of grants to the State of land or other property: *Provided*, however, that the Legislature of the State by appropriate legislation may authorize the city of Grand Rapids to issue its bonds for the improvement of the navigation of Grand River.

SEC. 10. The State may continue to collect all specific taxes accruing to the Treasury under existing laws. The Legislature may provide for the collection of specific taxes from banking, railroad, plank road, and other corporations hereafter created.

SEC. 11. The Legislature shall provide an uniform rule of tax-

ation, except on property paying specific taxes, and taxes shall be levied on such property as shall be prescribed by law.

SEC. 12. All assessments hereafter authorized shall be on property at its cash value.

SEC. 13. The Legislature shall provide for an equalization by a State Board, in the year one thousand eight hundred and fifty-one, and every fifth year thereafter, of assessments on all taxable property, except that paying specific taxes.

SEC. 14. Every law which imposes, continues, or revives a tax, shall distinctly state the tax, and the object to which it is to be applied; and it shall not be sufficient to refer to any other law to fix such tax or object.

ARTICLE XV.

CORPORATIONS.

SECTION 1. Corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes. All laws passed pursuant to this section may be amended, altered, or repealed. But the Legislature may, by a vote of two-thirds of the members elected to each House, create a single bank, with branches.

SEC. 2. No general banking law shall have effect until the same shall, after its passage, be submitted to a vote of the electors of the State at a general election, and be approved by a majority of the votes cast thereon at such election.

SEC. 3. The officers and stockholders of every corporation or association for banking purposes, issuing bank notes or paper credits, to circulate as money, shall be individually liable for all debts contracted during the term of their being officers or stockholders of such corporation or association, equally and ratably to the extent of their respective shares of stock in any such corporation or association.

SEC. 4. For all banks organized under general laws, the Legislature shall provide for the registry of all bills or notes issued or put in circulation as money, and shall require security to the full amount of notes and bills so registered, in State or United States stocks, bearing interest, which shall be deposited with the State Treasurer for the redemption of such bills or notes, in specie.

SEC. 5. In case of the insolvency of any bank or banking associa-

tion, the bill-holders thereof shall be entitled to preference in payment over all other creditors of such bank or association.

SEC. 6. The Legislature shall pass no law authorizing or sanctioning the suspension of specie payments by any person, association, or corporation.

SEC. 7. The stockholders of all corporations and joint stock associations shall be individually liable for all labor performed for such corporation or association.

SEC. 8. The Legislature shall pass no law altering or amending any act of incorporation heretofore granted, without the assent of two-thirds of the members elected to each house; nor shall any such act be renewed or extended. This restriction shall not apply to municipal corporations.

SEC. 9. The property of no person shall be taken by any corporation for public use, without compensation being first made or secured, in such manner as may be prescribed by law.

SEC. 10. No corporation, except for municipal purposes, or for the construction of railroads, plank roads, and canals, shall be created for a longer time than thirty years; but the Legislature may provide, by general laws applicable to any corporations for one or more extensions of the term of such corporations while such term is running, not exceeding thirty years for each extension, on the consent of not less than two-thirds majority of the capital of the corporation; and by like general laws for the corporate reorganization for a further period, not exceeding thirty years of such corporations whose terms have expired by limitation, on the consent of not less than four-fifths of the capital: *Provided*, that in cases of corporations where there is no capital stock, the Legislature may provide the manner in which such corporations may be reorganized.

SEC. 11. The term "corporations," as used in the preceding section of this article, shall be construed to include all associations and joint stock companies having any of the powers or privileges of corporations, not possessed by individuals or partnerships. All corporations shall have the right to sue, and be subject to be sued in all courts, like cases as natural persons.

SEC. 12. No corporation shall hold any real estate hereafter acquired, for a longer period than ten years, except such real estate

as shall be actually occupied by such corporation in the exercise of its franchises.

SEC. 13. The Legislature shall provide for the incorporation and organization of cities and villages, and shall restrict their powers of taxation, borrowing money, contracting debts and loaning their credit.

SEC. 14. Judicial officers of cities and villages shall be elected, and all officers shall be elected or appointed, at such time and in such manner as the Legislature may direct.

SEC. 15. Private property shall not be taken for public improvements in cities and villages without the consent of the owner, unless the compensation therefor shall first be determined by a jury of freeholders, and actually paid or secured in the manner provided by law.

SEC. 16. Previous notice of any application for an alteration of the charter of any corporation shall be given in such manner as may be prescribed by law.

ARTICLE XVI.

EXEMPTIONS.

SECTION 1. The personal property of every resident of this State, to consist of such property only as shall be designated by law, shall be exempted to the amount of not less than five hundred dollars, from sale on execution or other final process of any court, issued for the collection of any debt contracted after the adoption of this Constitution.

SEC. 2. Every homestead of not exceeding forty acres of land, and the dwelling-house thereon, and the appurtenances to be selected by the owner thereof, and not included in any town plat, city, or village; or instead thereof, at the option of the owner, any lot in any city, village, or recorded town plat, or such parts of lots as shall be equal thereto, and the dwelling-house thereon, and its appurtenances, owned and occupied by any resident of the State, not exceeding in value fifteen hundred dollars, shall be exempt from forced sale on execution or any other final process from a court, for any debt contracted after the adoption of this Constitution. Such exemptions shall not extend to any mortgage thereon, law-

fully obtained; but such mortgage or other alienation of such land by the owner thereof, if a married man, shall not be valid without the signature of the wife to the same.

SEC. 3. The homestead of a family, after the death of the owner thereof, shall be exempt from the payment of all his debts contracted after the adoption of this Constitution, in all cases, during the minority of his children.

SEC. 4. If the owner of a homestead die, leaving a widow but no children the same shall be exempt, and the rents and profits thereof shall accrue to her benefit during the time of her widowhood, unless she be the owner of a homestead in her own right.

SEC. 5. The real and personal estate of every female, acquired before marriage, and all property to which she may afterwards become entitled by gift, grant, inheritance, or devise, shall be and remain the estate and property of such female, and shall not be liable for the debts, obligations, or engagements of her husband, and may be devised or bequeathed by her as if she were unmarried.

ARTICLE XVII.

MILITIA.

SECTION 1. The militia shall be composed of all able-bodied male citizens between the ages of eighteen and forty-five years, except such as are exempt by the laws of the United States or of this State; but all such citizens, of any religious denomination whatever, who, from scruples of conscience, may be averse to bearing arms, shall be excused therefrom, upon such conditions as shall be prescribed by law.

SEC. 2. The Legislature shall provide by law for organizing, equipping, and disciplining the militia, in such manner as they shall deem expedient, not incompatible with the laws of the United States.

SEC. 3. Officers of the militia shall be elected or appointed, and be commissioned in such manner as may be provided by law.

ARTICLE XVIII.

MISCELLANEOUS PROVISIONS.

SECTION 1. Members of the Legislature, and all officers, executive

and judicial, except such officers as may by law be exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of this State, and that I will faithfully discharge the duties of the office of ——— according to the best of my ability." And no other oath, declaration, or test shall be required as a qualification for any office or public trust.

SEC. 2. When private property is taken for the use or benefit of the public the necessity for using such property, and the just compensation to be made therefor, except when to be made by the State, shall be ascertained by a jury of twelve freeholders, residing in the vicinity of such property, or by not less than three commissioners, appointed by a court of record, as shall be prescribed by law; *Provided*, the foregoing provision shall in no case be construed to apply to the action of commissioners of highways in the official discharge of their duty as highway commissioners.

SEC. 3. No mechanical trade shall hereafter be taught to convicts in the State Prison of this State, except the manufacture of those articles of which the chief supply for home consumption is imported from other states or countries.

SEC. 4. No navigable stream in this State shall be either abridged or dammed without authority from the board of supervisors of the proper county, under the provisions of law. No such law shall prejudice the right of individuals to the free navigation of such streams, or preclude the State from the further improvement of the navigation of such streams.

SEC. 5. An accurate statement of the receipts and expenditures of the public moneys shall be attached to and published with the laws at every regular session of the Legislature.

SEC. 6. The laws, public records, and the written judicial and legislative proceedings of the State, shall be conducted, promulgated, and preserved in the English language.

SEC. 7. Every person has a right to bear arms for the defense of himself and the State.

SEC. 8. The military shall, in all cases and at all times, be in strict subordination to the civil power.

SEC. 9. No soldier shall, in time of peace, be quartered in any

house without the consent of the owner or occupant, nor in time of war except in a manner prescribed by law.

SEC. 10. The people have the right peaceably to assemble together to consult for the common good, to instruct their representatives, and to petition the Legislature for redress of grievances.

SEC. 11. Neither slavery nor involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this State.

SEC. 12. No lease or grant hereafter, of agricultural lands, for a longer period than twelve years, reserving any rent or service of any kind, shall be valid.

SEC. 13. Aliens who are, or may hereafter become, *bona fide* residents of this State, shall enjoy the same rights in respect to the possession, enjoyment, and inheritance of property as native-born citizens.

SEC. 14. The property of no person shall be taken for public use, without just compensation therefor. Private roads may be opened in the manner to be prescribed by law; but in every case the necessity of the road and the amount of all damages to be sustained by the opening thereof, shall be first determined by a jury of freeholders; and such amount, together with the expenses of proceedings, shall be paid by the person or persons to be benefited.

SEC. 15. No general revision of the laws shall hereafter be made. When a reprint therefore becomes necessary the Legislature, in joint convention, shall appoint a suitable person to collect together such acts and parts of acts as are in force and, without alteration, arrange them under appropriate heads and titles. The laws so arranged shall be submitted to two commissioners appointed by the Governor, for examination, and if certified by them to be a correct compilation of all general laws in force, shall be printed in such manner as shall be prescribed by law.

ARTICLE XIX.

UPPER PENINSULA.

SECTION 1. The counties of Mackinac, Chippewa, Delta, Marquette, Schoolcraft, Houghton, and Ontonagon, and the islands and territory thereunto attached, the islands of Lake Superior,

Huron, and Michigan, and in Green Bay, and the Straits of Mackinac and the River Ste. Marie, shall constitute a separate judicial district, and be entitled to a district judge and district attorney.

SEC. 2. The district judge shall be elected by the electors of such district, and shall perform the same duties and possess the same powers as a circuit judge in his circuit, and shall hold his office for the same period.

SEC. 3. The district attorney shall be elected every two years by the electors of the district, shall perform the duties of prosecuting attorney throughout the entire district, and may issue warrants for the arrest of offenders in cases of felony, to be proceeded with as shall be prescribed by law.

SEC. 4. Such judicial district shall be entitled at all times to at least one senator, and, until entitled to more by its population, it shall have three members of the House of Representatives, to be apportioned among the several counties by the Legislature.

SEC. 5. The Legislature may provide for the payment of the district judge a salary not exceeding one thousand dollars a year, and of the district attorney not exceeding seven hundred dollars a year; and may allow extra compensation to the members of the Legislature from such territory, not exceeding two dollars a day during any session.*

SEC. 6. That elections for all district or county officers, State Senators, or Representatives, within the boundaries defined in this article, shall take place on the Tuesday succeeding the first Monday in November in the respective years in which they may be required; the county canvass shall be held on the first Monday thereafter, and the district canvass on the third Monday of said November.

SEC. 7. One-half of the taxes received into the Treasury from mining corporations in the Upper Peninsula, paying an annual State tax of one per cent., shall be paid to the treasurers of the counties from which it is received, to be applied for township and county purposes, as provided by law. The Legislature shall have power, after the year one thousand eight hundred and fifty-five, to reduce the amount to be refunded.

* Office of district judge abolished January 1, 1864, and of district attorney, March 3, 1865.

SEC. 8. The Legislature may change the location of the State Prison from Jackson to the Upper Peninsula.

SEC. 9. The charters of the several mining corporations may be modified by the Legislature, in regard to the term limited for subscribing to stock, and in relation to the quantity of land which a corporation shall hold; but the capital shall not be increased, nor the time for the existence of charters extended. No such corporation shall be permitted to purchase or hold any real estate, except such as shall be necessary for the exercise of its corporate franchises.

ARTICLE XIX.—A.

RAILROADS.

SECTION 1. The Legislature may, from time to time, pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight on different railroads in this State, and shall prohibit running contracts between such railroad companies whereby discrimination is made in favor of either of such companies as against other companies owning connecting or intersecting lines of railroad.

SEC. 2. No railroad corporation shall consolidate its stock, property, or franchises with any other railroad corporation owning a parallel or competing line; and in no case shall any consolidation take place except upon public notice given of at least sixty days to all stockholders, in such manner as shall be provided by law.

ARTICLE XX.

AMENDMENT AND REVISION OF THE CONSTITUTION.

SECTION 1. Any amendment or amendments to this Constitution may be proposed in the Senate or House of Representatives. If the same shall be agreed to by two-thirds of the members elected to each house, such amendment or amendments shall be entered on the journals respectively, with the yeas and nays taken thereon; and the same shall be submitted to the electors at the next spring or autumn election thereafter, as the Legislature shall direct, and if a majority of electors qualified to vote for members of the Legis-

lature, voting thereon, shall ratify and approve such amendment or amendments, the same shall become part of the Constitution.

SEC. 2. At the general election to be held in the year one thousand eight hundred and sixty-six, and in each sixteenth year thereafter, and also at such other times as the Legislature may by law provide, the question of the general revision of the Constitution shall be submitted to the electors qualified to vote for members of the Legislature; and in case a majority of the electors so qualified, voting at such election, shall decide in favor of a convention for such purpose, the Legislature, at the next session, shall provide by law for the election of such delegates to such convention. All the amendments shall take effect at the commencement of the year after their adoption.

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